TOP SECRET

DEPARTMENT OF STATE

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48

Memorandum of Conversation

DATE: March 2, 1951

SUBJECT: Security of Japan.

JP Can'd - TS

PARTICIPANTS: Mr. P. Campbell, Canadian Embassy
Mr. U. A. Johnson, Department of State

COPIES TO: FE
SMA
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Sept. 1-30 1951 DECLASSIFIED

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Sept. 1-30 (b)

Stated that in so far as I knew, the decision was reached because of our continuing concern over the security of Japan in the light of apparent Soviet capabilities and the virtually unprotected situation of Japan since the removal of troops for the operation in Korea. I discussed the potentialities of the National Police Reserve as being effective only against internal disturbances and the difficulties of effective American sea and air counter action against any Soviet move from the north across the narrow waters between Hokkaido, Sakhalin and the Kuriles. I mentioned the possibility of a Soviet threat against Japan in terms of an all out attack against Japan as one portion of a general attack against the free world, a localized overt Soviet attack upon Japan and a covert attack through the use of unrepatriated Japanese prisoners of war. I stated that the two divisions with the National Police Reserve probably should be able to contain the latter threat but could not be considered any guarantee against either of the first two threats, and it was, therefore, my personal view that we should move ahead as rapidly as possible with a peace treaty for Japan in order that Japan could make an increased contribution to its own defense.

Sept. 1-30 (b)

FE:UA:UAJohnson:lk
3/2/51

TOP SECRET

TOP SECRET

March 24, 1950
(revised April 20, 1950)

TO: G - Mr. Rusk
S/A - Mr. Jessup
FE - Mr. Butterworth

FROM: S - Mr. Howard

SUBJECT: Voorhees' Suggested Approach to Japanese Treaty Problem

Although there are minor differences, Voorhees' suggested approach to the Japanese treaty problem is identical in its main features with the proposal which we submitted to the Secretary on January 18. The manner in which Voorhees' proposal was arrived at is also similar to the manner in which our proposal was developed. The Defense Department does not regard a peace treaty and bilateral base agreement as a satisfactory solution from the military standpoint (as the State Department is disposed to regard it as unsatisfactory for political reasons). On the other hand the adverse consequences of not having a peace treaty are recognized. Accordingly an attempt was made to determine how far one could go in meeting the desire of the Japanese and our friendly Allies for a peace treaty without terminating the occupation and abandoning the wartime legal basis for the presence of U.S. forces in Japan. The compromise agreement was thus arrived at, similar to our proposed Agreement for the Restoration of Political and Economic Relations with Japan.

The similarity in the processes by which the Voorhees proposal and our January 18 proposal were arrived at suggests that it may well be possible to carry the Defense Department along with us in taking the next step--i.e., a multilateral security arrangement--which we, by a process of slef-education, have already developed within the State Department.

Reasons in Support of Compromise Agreement

The following analysis of the reasons given by Voorhees, Dorr and Murchison for not wanting a peace treaty and bilateral base agreement is helpful in determining what the reaction of the Defense Department might be to a multilateral security arrangement. There are three principle elements involved: (1) termination of the occupation without Soviet consent; (2) termination of the SCAP command relationship over the Japanese Government; (3) necessity of providing permanent solutions for important military, political and economic problems in a changing situation with unforeseeable contingencies.

1. Termination of occupation without Soviet consent.

   a. This would involve breach of the surrender terms that occupation forces be withdrawn when the occupation is over.

   b. The Soviet

b. The Soviet Union would have the right to send in occupation forces free of American command. Under the compromise agreement any Soviet troops in Japan would have to be placed under SCAP.

c. The Soviets would have an alternative right to consider the state of hostilities with Japan restored by Japan's breach of the surrender agreement and in the exercise of their right could harass Japanese shipping, etc. Under the compromise agreement a state of peace would be restores without breach of the surrender terms.

d. The above Soviet rights and action to implement them could be justified on a plausible legal basis to the world. (Here statements of MacArthur, Lemnitzer and Butterworth in 1947 are quoted as authority.)

Comment

A reasonable test of the above reasoning is as follows. Let us suppose that the Soviets, foreseeing the legal case which the United States was attempting to build against it, gave notice to Japan and the other Allies that it would regard the signature of such a compromise agreement as a breach of the Moscow Agreement and the surrender agreement and that it would no longer regard itself bound by these agreements if the compromise agreement were entered into. If the compromise agreement were nevertheless signed the Soviets could profess that their rights had been violated by a breach of the Moscow and surrender agreements and that they were free to send occupation troops into Japan free of American command or to consider the state of hostilities with Japan restored. This is precisely the situation which the compromise agreement was designed to avoid according to a,b,c.

This leaves only the plausibility argument d. Statements of what might have been regarded as plausible in 1947 can scarcely be cited as authority for what might be regarded as plausible now in the light of what has transpired during the past three years. A better test of plausibility lies in the number of nations which would register disagreement with the Soviet Union by participating in the signature of the compromise agreement. If, for example, India refused to sign, the weight of the Soviet argument among the peoples of the Far East would be much greater.

2. Termination

2. Termination of SCAP command relationship over Japanese Government.

a. This would involve abandonment of SCAP's ability to exercise his reserve powers in an emergency due to war, attempted Communist coup or otherwise. Under the compromise agreement the continuance of the regime of control would protect U.S. security in such emergencies.

b. A point made by Dorr and Murchison, which Voorhees does not repeat and may not share, is that the Japanese Government has not yet demonstrated its ability to handle its own economic and political affairs, both domestic and foreign, without the help of SCAP and the permanence of the occupation reforms have not yet been proven. A resurgence of Japanese nationalism and economic rapacity could lead to an alliance of Japan with other totalitarian states. Far sighted economic cooperation and a genuine partnership between Japan and other nations is therefore needed. It is further alleged that the proposal to abandon reserve powers in Japan is directly contrary to the policy of retaining such powers in Germany.

Comment

Two weaknesses in the above reasoning are pointed out in the Murchison memo: "(1) Although continuance of the occupation would provide a means for resisting Communist expansion at present, it would eventually so alienate the Japanese that they could neither be deemed friends during a state of peace nor allies in the event of war. (2) Following relaxation of governmental controls, it would be difficult thereafter, as a practical matter, to regain full administrative authority in the event the need to do so arose."

The basic problem involved here lies in the proposed duration of the continued regime of occupation control. It would appear impossible to set a time limit in the compromise agreement. Yet without a proposed time limit, the intentions of the United States would be suspect in Japan, in the Far East and even among our friendly Western Allies, and Japanese sensitivity to a lack of international equality of indefinite prolongation might well eventually undermine its pro-U.S. orientation in the course of time.

3. Necessity of providing permanent solutions for important military, political and economic problems in a changing situation with unforeseeable contingencies.

Under the compromise agreement it would not be necessary to

provide

provide concrete or permanent standards or solutions with respect to important military, political and economic matters the best solutions of which cannot now be fully foreseen.

Comment

The flexibility provided by the compromise agreement can be only for a short duration as indicated in (2) above. With the passage of time the continuation of the regime of occupation control would leave the United States in an increasingly inflexible position.

TOP SECRET

Analysis of Legal Questions Raised by Under Secretary of the Army Voorhees

Concerning Separate Peace and Security Settlement with Japan

1. Mr. Voorhees' Legal Position

In his memorandum of March 23, 1950 to the Secretary of State on a suggested approach to the Japanese peace problem, Under Secretary of the Army Voorhees states that the JCS, following their trip to Japan in January, reaffirmed the position set forth in their opinion of December and June 1949 that a peace treaty with Japan is premature. According to Mr. Voorhees' memorandum:

"The basic reasoning underlying this position is, I believe, that n unarmed Japan would have no security without the presence of U.S. forces; that the surrender terms require that the occupation forces of the Allies withdraw at the end of the occupation; that to avert the necessity of withdrawal of U.S. troops, the proposed making of a bilateral agreement between Japan and the U.S. for bases might well be a breach of the surrender terms that occupation forces should withdraw when the occupation is over; further, that Russia has a right to have occupation troops in Japan but has not exercised it because of unwillingness to place her forces under an American Commander, as she is required to do while the 'regime of control' continues; that if Japan should succeed in terminating the 'regime of control' by a treaty to which Russia is not a party, this would leave Russia with a right to send in occupation troops free of any American Command, even without restoration of hostilities; that this would give the U.S. troops remaining in bases in Japan the unattractive options of resisting such landing by force or of attacking Russian troops which had landed, or of sharing the islands with Russian troops, or of withdrawing and turning Japan over to the Russians; further, that Russia would have an alternative right to consider the state of hostilities restored because of Japan's breach of her surrender agreement (to place her Government and her Emperor under the Supreme Commander) and by harassing tactics against shipping or otherwise make the maintenance of the economy of Japan impossible."

On the following points Mr. Voorhees and the Department appear to be in agreement: That the United States is not legally prohibited from signing a separate peace treaty with Japan; and that it is not the mere co-existence of a state of peace between Japan and the United States and a state of war between Japan and the USSR which gives rise to the security risks envisaged by Mr. Voorhees, inasmuch as the limited political and economic peace treaty suggested by Mr. Voorhees also contains this feature.

2. Soviet Rights

The principal Soviet rights of concern to Mr. Voorhees appear to be the right to occupy Japan with Soviet forces and the right to seize or otherwise

harass

harass Japanese shipping. These rights, in his view, would flow either from the Instrument of Surrender or the belligerent status of the USSR.

Soviet exercise of such rights under the Instrument of Surrender, in order to be plausible, would presumably purport to accomplish one or more of the objectives of the Terms of Surrender. Thus the Soviets might base their action on a claim that Japan was not properly fulfilling its obligations under the Instrument of Surrender, that the present occupation was not bringing about a peacefully-inclined and responsible Japanese Government, or that the Terms of Surrender envisaged the maintenance of Japanese industries which would permit the exaction of just reparations from Japan.

Soviet exercise of such rights in its status as a belligerent, in order to be plausible, would at this late date require more than the mere existence of a state of war between Japan and the USSR. The Soviets would presumably allege that the separate peace and security settlement constituted a hostile act against it or that Soviet action was necessary to protect Soviet interests, say in obtaining a just share of reparations. If Soviet actions went beyond these limits they would run afoul of the provisions of the UN Charter and could be denounced as threats to the peace or acts of aggression.

3. Department's Legal Position

A statement of the legal position of the Department, as of the time of the conclusion of a separate peace and security settlement, would be in brief as follows: The objectives of the Instrument of Surrender and the Potsdam and Moscow Agreements have, in the opinion of the large majority of the FEC and other nations, been fulfilled. Japan is entitled to a peace treaty and termination of the Allied Occupation. The United States and other Allies have made a good-faith effort to conclude a peace treaty which is not objectionable to and could be participated in by the USSR and China. The great majority of the nations concerned, other than the USSR and China, have signed the treaty. The United States is under no legal obligation to the USSR and China not to enter into a separate peace treaty. The security arrangement under which U.S. forces are stationed in Japan is based on Japan's comment, is entirely defensive in nature for the purpose of insuring Japan's security and has the sanction of the majority of the FEC powers.

According to this legal position the guide posts of a peace and security settlement with Japan should be:

a. To cut off as far as possible Soviet and Chinese rights under the Instrument of Surrender through the participation of as many nations as possible in the signing of the peace treaty and the termination of the occupation, and a good-faith effort to achieve Soviet and Chinese participation. This course is to be contrasted with a continuation of the occupation either under the stand-by SCAP or limited peace treaty proposal, both

of which

of which have as their objective the preservation of U.S. rights of occupation with the result that corresponding Soviet rights are also preserved.

b. To conclude a settlement which could not plausibly be construed as a hostile act against the USSR and China by making the settlement entirely defensive in nature, based on Japanese consent, and sanctioned by a large proportion of the other nations vitally concerned.

c. To be in a position effectively to counter any Soviet or Chinese action which clearly went beyond the function of protecting legitimate Soviet or Chinese interests and fell into the category of threats to the peace or acts of aggression.

The Department regards a Soviet attempt to land forces of occupation in Japan proper as improbable either under present conditions or under a separate peace settlement. It is believed that any such attempt would probably have to be resisted by force in either case and that the main deterrent to such action is Soviet awareness of the firm determination of the U.S. to resist it, by force if necessary. From the legal standpoint it is believed that a Soviet attempt would be more plausible if made under present conditions pursuant to the Instrument of Surrender and under the guise of a response to the original invitation to contribute forces to the occupation, than under a peace and security settlement which meets the above tests. In the latter case the United States and friendly Allies could plausibly state that the objectives of the occupation had been fulfilled and could not possibly be served by Soviet occupation of Japan and that such Soviet action would be a hostile act not only against Japan but also against the U.S. whose forces are stationed on Japan for the protection of Japan's security and against the other nations party to the arrangement. Such a hostile act could be branded in the United Nations as a threat to the peace in violation of the U.N. Charter and, if the Soviets in the course of their action precipitated the use of armed force, the U.S. would be fully justified in resorting to measures of collective and individual self-defense under Article 51 of the Charter. The fact that under present conditions Soviet forces would have to be placed under SCAP is hardly a safeguard since Soviet forces, once in Japan, could refuse to obey his commands; instead, the presence of SCAP makes it easier for the Soviets to assert a right to have their forces in Japan.

Mr. Voorhees and his colleagues quote statements of MacArthur, Lemnitzer, and Butterworth in 1947 as authority for the proposition that a Soviet attempt to land occupation forces on Japan following conclusion by the United States of a separate peace treaty could be justified on a plausible legal basis to the world. Mr. Butterworth's statement referred to the likelihood that the Soviets might no doubt find legal pretexts for their action which certain other governments might find plausible. But under present circumstances, which are quite different from those in 1947 because of what has transpired during the last three years, and in view of the provisions of the U.N. Charter, it is and has

always

always been the position of the Department that a Soviet attempt to land forces of occupation on Japan following conclusion of a separate peace treaty, regardless of the pretexts used, would constitute a threat to the peace under the Charter.

Soviet seizure of Japanese shipping in Soviet-controlled waters, or other Japanese assets within Soviet control, might be difficult to counter so long as such action took place on a minor scale, possibly under the guise of reparations. Should the Soviets systematically seize Japanese shipping on the high seas, however, so as to constitute a serious threat to Japanese security and economic well-being, the Soviet purpose behind such action could not plausibly be justified to other nations at peace with Japan under the guise of reparations. Nor could such action against Japan be justified under Article 107 of the U.N. Charter, because of the lack of big power unanimity. The United States and other powers entrusted by Japan with responsibility for Japanese security would be in a good position to challenge such action as a threat to the peace or an act of aggression under the U.N. Charter. In any case, possible Soviet immunity in seizing a few Japanese fishing vessels cannot stand as a reason for not concluding a peace settlement with Japan when there are urgent and important political reasons for doing so.

Underlying a good deal of the thinking of the Defense Department is an unwarranted belief that U.S. security is somehow guaranteed by the SCAP command relationship over the Japanese Government and that termination of this relationship means the loss of U.S. security. Thus great emphasis is placed on the loss, in the event of a peace settlement, of SCAP's ability to exercise his reserve powers in an emergency due to war, attempted Communist coup or otherwise, or to assume command over any Soviet forces which might try to land in Japan. Also, under the suggested compromise peace treaty the continuance of the SCAP relationship to protect U.S. security in such emergencies is the key feature.

This belief is perhaps a reflection not only of military training but also of the unusual conditions found in Japan during the past years of a people who have uniformly, willingly, and effectively carried out all commands, both great and small. Should the Japanese people turn hostile, refuse to obey commands, and passively or actively resist U.S. forces, however, the command relationship would afford little protection to U.S. security and U.S. bases would become in fact a liability. And it is believed that continuance of the occupation would eventually so alienate the Japanese.

S:JBHoward:bh
4/14/50

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MEMORANDUM OF CONVERSATION

TOP SECRET

Tokyo, February 5, 1950

Participants: General MacArthur
Mr. Butterworth
Mr. Sebald

In the course of an hour's interview followed by a luncheon conversation, General MacArthur reiterated the views he had previously expressed to Mr. Sebald on several occasions and, more recently, to Ambassador Jessup with respect to a Treaty of Peace with Japan.

Since the Joint Chiefs of Staff had just departed from Tokyo following a three-day conference with General MacArthur, I queried him particularly as to the nature of his discussions with the Joint Chiefs and the effect which their visit to Japan might have on their previously expressed opinions.

In brief, he indicated his firm conviction that his discussions with the Joint Chiefs had a helpful and constructive result; he felt sure that the Joint Chiefs would considerably modify their previous opinion, but they should be given a little time so as not to lose face in the process of reversal.

It is of interest that in this connection, General MacArthur referred to the opinion of the Joint Chiefs of last July about which, he said, he had not been consulted and said that General Bradley under questioning admitted it had been only "lightly considered".

Among the things which General MacArthur vouchsafed he had stated to the Joint Chief, two points are of particular interest; one, his insistence to the Joint Chiefs that they had exceeded their terms of reference and expressed opinions which had nothing to do with the military aspects of the problem on which

their

their advice had been sought; secondly, he had emphasized the importance of not proposing to the Japanese drastic requirements regarding bases, and in this connection had cited the relationship between Egypt and the United Kingdom since 1882. He informed the Joint Chiefs that in his view a maximum five-year period was sufficient for base rights, renewal to take place thereafter by mutual agreement. He expressed the greatest confidence that the Japanese would be more than willing to undertake subsequent renewal; if anything, he said, the United States would in the end prove to be the first to seek disengagement from the agreement. I questioned him about whether the Joint Chiefs entertained the view, as Mr. Voorhees had more than once implied, that bases in Japan were to be used in the future for forward air operations against Russia in time of war. General MacArthur said decidedly not, that the bases in Japan now and for the future are and would be for defensive purposes only, and that the Joint Chiefs had no other concept in mind.

General MacArthur reiterated that he believed that the attitude of the Joint Chiefs would undergo decided modification, but it was to be expected that Mr. Voorhees would fanatically oppose any treaty in the immediate future. He felt that Mr. Voorhees entertained such exaggerated views about this matter that he would doubtless resign rather than be party to a peace treaty.

General MacArthur emphasized, as he had in previous conversations with Mr. Sebald and Ambassador Jessup, the importance in his view of the United States Government proceeding without delay to call a Peace Conference, thus recapturing the initiative in the Orient and, in this connection, he went out of his way to reiterate that the situation in Japan itself could not stand still; that the Japanese would not permit themselves to be controlled by an Occupation indefinitely.

In addition, he said that in his opinion the rest of Asia looked upon the Occupation as an imperialistic venture, a belief which was largely sponsored by Soviet propaganda. He felt that the United States must make good on its promise to end the Occupation to prove to Asia our lack of imperialistic ambition here.

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always been the position of the Department that a Soviet attempt to land forces of occupation on Japan following conclusion of a separate peace treaty, regardless of the pretexts used, would constitute a threat to the peace under the Charter.

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Underlying a good deal of the thinking of the Defense Department is an unwarranted belief that U.S. security is somehow guaranteed by the SCAP command relationship over the Japanese Government and that termination of this relationship means the loss of U.S. security. Thus great emphasis is placed on the loss, in the event of a peace settlement, of SCAP's ability to exercise his reserve powers in an emergency due to war, attempted Communist coup or otherwise, or to assume command over any Soviet forces which might try to land in Japan. Also, under the suggested compromise peace treaty the continuance of the SCAP relationship to protect U.S. security in such emergencies is the key feature.

This belief is perhaps a reflection not only of military training but also of the unusual conditions found in Japan during the past years of a people who have uniformly, willingly, and effectively carried out all commands, both great and small. Should the Japanese people turn hostile, refuse to obey commands, and passively or actively resist U.S. forces, however, the command relationship would afford little protection to U.S. security and U.S. bases would become in fact a liability. And it is believed that continuance of the occupation would eventually so alienate the Japanese.

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It is of interest that in this connection, General MacArthur referred to the opinion of the Joint Chiefs of last July about which, he said, he had not been consulted and said that General Bradley under questioning admitted it had been only "lightly considered".

Among the things which General MacArthur vouchsafed he had stated to the Joint Chief, two points are of particular interest; one, his insistence to the Joint Chiefs that they had exceeded their terms of reference and expressed opinions which had nothing to do with the military aspects of the problem on which

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General MacArthur emphasized, as he had in previous conversations with Mr. Sebald and Ambassador Jessup, the importance in his view of the United States Government proceeding without delay to call a Peace Conference, thus recapturing the initiative in the Orient and, in this connection, he went out of his way to reiterate that the situation in Japan itself could not stand still; that the Japanese would not permit themselves to be controlled by an Occupation indefinitely.

In addition, he said that in his opinion the rest of Asia looked upon the Occupation as an imperialistic venture, a belief which was largely sponsored by Soviet propaganda. He felt that the United States must make good on its promise to end the Occupation to prove to Asia our lack of imperialistic ambition here.

It was

It was obvious from General MacArthur's account of his discussions with the Joint Chiefs that he still entertained the view that the neutralization of Japan would be of advantage to Soviet Russia as well as to the United States, and therefore should be acceptable to both countries. General MacArthur seemed moved to hold this concept of Soviet interest in a neutral Japan because of his view that the Soviet positions in this part of the world are of a defensive character. Also he conceives that so profound is the anti-Russian feeling in Japan that an association between Japan and Russia would not prove on balance advantageous to Russia. Queried about these assumptions and about Soviet Russia's desire to control the power potential of Japan, General MacArthur, without disavowing his previously expressed view, made it clear that if Soviet Russia (and Communist China) did not join in a Peace Treaty, he felt that a Treaty should nevertheless be concluded with the other concerned nations.

W. Walton Butterworth
Assistant Secretary of State
for Far Eastern Affairs

COPY

Jan 18

(3)

THE FOREIGN SERVICE
of the
UNITED STATES OF AMERICA

TOP SECRET

Tokyo, January 16, 1950

Dear Walt:

During the course of a conversation with General MacArthur yesterday evening, consequent upon my return from Korea and Okinawa, the General reverted to his concept regarding the summoning of a peace conference. Much of what he said closely paralleled the information contained in the memorandum of conversation sent to you by Dr. Jessup after our interview with him, and which, presumably, you have already received. I will not, therefore, repeat those views which you already have.

The principal point which the General stressed again and again in the conversation of last evening was to the effect that unless the United States Government promptly goes forward with its plans for summoning a peace conference, it may be impossible to regain the political initiative in the Far East for a long time to come. He said that, in his opinion, the "next six weeks" are crucial and that as a matter of timing invitations to a Japanese peace conference should be issued within this period.

It is his firm conviction that the Joint Chiefs of Staff expected to be overruled when they forwarded the conclusion that a treaty of peace with Japan is premature. He said that he could not understand why the Secretary does not obtain a presidential decision overruling the JCS; he feels that the JCS themselves know so little about the Japanese situation that they are not in a position strongly to object if they are overruled.

On the question of security, the General said that it is his concept that the question of the numbers of U.S. forces to remain in Japan is really irrevelant:

even

The Honorable
W. Walton Butterworth,
Assistant Secretary of State
for Far Eastern Affairs,
Washington.

even the forces which we presently have here would not be sufficient to fight a major war, and, in the final analysis, the determinative factor is whether Soviet Russia desires and will go to war with the United States. He pointed to the Philippines as an example of what he meant. He said that although we have no forces in the Philippines, it is understood that if the Philippines were to be attacked by Soviet Russia it would mean war; and yet the question of security for the Philippines, in contradistinction to the security of Japan, has not been made a major issue by the JCS. He also said that Japan represents only a small portion of the global situation and that the question of the security of Japan should not, therefore, be the deciding factor as to whether a peace conference should be held. In his opinion, the JCS, having been asked for their opinion regarding security considerations with respect to the proposed peace treaty, quite naturally replied "for the record" and "played it safe" as though Japan were an isolated part of the entire world picture.

Sincerely yours,

BILL/s/
W. J. Sebald

Tab 17

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TOP SECRET

January 9, 1950

MEMORANDUM OF CONVERSATION WITH GENERAL DOUGLAS MacARTHUR
Dai Ichi Building, Tokyo, January 8, 1950

EXCERPT

I then said (Ambassador Jessup speaking) that following the lines which he had sketched I personally felt that one of the ways in which we could meet the communist menace in Asia was by the conclusion of the Japanese Peace Treaty, which would prove that we were not imperialist but were ready to satisfy the legitimate desires of the people. General MacArthur immediately stated his emphatic and enthusiastic agreement with this proposition. He said that it was he who had signed the surrender instrument on the Missouri and that he knew the terms and meaning of that document. While the Japanese had made promises, they had fulfilled those promises to the letter; we had also made promises and we were committed absolutely to giving them their freedom now that they had accomplished the essential purposes laid down in the surrender documents and Potsdam Agreement. Nothing could so dramatize in the eyes of the world our intentions as the conclusion of the Peace Treaty. If we proceeded to a peace conference all of the attention of the East would be focussd on this issue and so would the attention of the press of the world. This was one way in which we could accomplish the enormously important result of getting the initiative back from the Russians. He felt personally that it would be much the best plan to hold the peace conference in Tokyo. He said that the historic practice of arranging a peace treaty in the capital of the defeated power was not merely a show by the victor but as in this case had the essential purpose of getting the acquiesance of the defeated country in the terms of the peace. If the Peace Treaty were dictated in Washington remote from Asia, the Japanese would feel that any provisions of the treaty that they did not like had been imposed upon them from far away and they would resent and continue to oppose the implementation of these provisions. On the other hand, if the agreement were reached in Tokyo they would feel that they had a part in it and would accept the terms. Tokyo represents an essentially neutral

ground

ground being as close to the Soviet Union as to the United States. This led him to a consideration of the future status of Japan and the possibilities of its long-term neutralization. He said the Russians were just as much convinced that we had nefarious ulterior purposes as we knew they had. Many people in the United States and elsewhere also thought that we intended to build up Japan as a weapon to use against the Russians. The Japanese on the one hand realize and we should realize that in any war regardless of what happened their islands would be destroyed. Modern war no longer was a suitable means of settling international questions because of the total character of the involvement and destruction. Japan could, however, be a neutral spot to the advantage of the United States and of the Soviet Union as well. We should be able to convince the Russians that here at least their interests and ours were parallel. He felt sure that if a man like Jacob Malik represented the Soviet Union in such discussions that he would appreciate this view and could be convinced. He believed this was true of other Russians as well. He saw no reason why the Russians should not agree to the security provisions which we desire for the Peace Treaty. In any case he thought we should proceed actively to negotiate the treaty if necessary ending up with a treaty to which the Soviet Union and China would not be parties.

. . . . .

Mr. Sebald then inquired whether the General had actually seen the statement which the Joint Chiefs had made about our security requirements under a Japanese Peace Treaty. When the General said that he had not seen these but was familiar with the conclusion, Mr. Sebald read them to him. In regard to the first four points, the General interposed comments to the effect that these were correct and could be secured. He said the Japanese would have no objection and he did not think the Russians would object. Particularly with regard to the Ryukyus including Okinawa, he said the Russians could be countered by their claims to the Kurils and Saghalin and would be unable to object to our proposals. (He had previously stated his estimate of our needs here in terms of bases including the naval base at Yokosuka and three air bases--General Stratemeyer had mentioned to me five. In connection with each one of the air bases, the General said we would need merely a battalion of ground troops and an anti-aircraft battalion at each base and that at the naval base we would station the Commanding

General

General with one regiment. This would represent a total complement with the Air Force of about 30,000 men.) In regard to the JCS view about the participation of the Soviet Union and China and their conclusion that under present circumstances this could not be obtained and therefore the negotiation of a peace treaty was premature, the General stated quite explicitly his view that this was not a decision which should be left to the JCS, but that in any event, the JCS expected to be overruled.

. . . . .

Again being careful to indicate that he was speaking personally and did not propose to mix into matters which were not his affair, the General said that he thought the Secretary should take the matter up with the President and ask for definite authority to proceed with the negotiation of the Treaty, the terms and procedures to be left to his discretion. He remarked that he had tried to get the Secretary to make a trip to Japan when he had first taken office, but unfortunately it had not been possible to arrange this. He felt that, if the Secretary could have come at that time, it would have been enormously helpful. It was evident to me that he felt that he and the Secretary viewed matters in very much the same way and that the difficulty existed between SCAP and the Department of Defense. Tying in this discussion with his previous remarks, I told him that the Far Eastern Consultants had included the conclusion of the Japanese Peace Treaty among the urgent items and that we had emphasized the need for dramatic steps which would capture the imagination. General MacArthur expressed full agreement with this and repeated his view that the negotiation of the Peace Treaty would be the most significant step which could be taken. The Russians are making considerable progress in their propaganda that it is the United States which is holding up the Treaty. We ought to press the negotiation and make it perfectly plain that it is the Russians and not we who would be holding up the Treaty. To illustrate this point, he recalled the banquet scene in "A Yankee at the Court of King Arthur" when the Yankee had described

how he

how he had told one of his choice stores without evoking a single smile. After he had told it for the 50th time, he noted that one man way down at the end of the table had smiled and the last time he told it that night, for the 500th time, he had them rolling under the table with laughter. The General said that this was the technique we should use in telling the people over and over again that we wanted a peace treaty with Japan and the Russians were blocking it. In regard to future developments concerning negotiation of the Treaty, I said that I had no information but that I personally felt sure that the matter should not be considered dead. I noted that the statement of the Joint Chiefs transmitted by the Secretary of Defense to the Secretary of State had made it impossible for the Department to communicate to the British Commonwealth countries our views about the Treaty prior to their Ceylon Conference. I said it seemed to me likely that the British Commonwealth countries would discuss this matter and probably make some report to us concerning their views. The General thought the British were extremely anxious to have the Treaty in order to promote their commercial interests and thought it would be a great mistake to allow them to seem to have the initiative and to be prodding us into the negotiation of the Treaty rather than have us to take the lead. He indicated that if the State Department pressed ahead for a peace conference they would have the support of SCAP although he did not intimate that he wished to be called upon to express his views. In fact, as we concluded the conversation, he repeated that he expressed his opinions very freely and informally because they had been asked for; he did not wish to intrude his views and certainly did not wish to suggest that he felt he had any right to make decisions. He said when decisions were made by the Secretary of State they became the decisions of the United States and he would loyally carry them out. He stressed particularly his hope that what he had said to me in this personal and informal way would be guarded against the possibility of use to draw him into any controversies in Washington. He referred indirectly to his previous unfortunate experiences along this line. I assured him that I understood his position and would fully respect his wishes in the matter. (I think it is clear that none of the statements which he made should be allowed to get any wide circulation which might result in any leak to the press.)

Philip C. Jessup
Ambassador at Large

PCJ:eva:cgf 1/9/50

Tab 15

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COPY

TOP SECRET

THE SECRETARY OF DEFENSE

Washington

~~DOD~~

Published in Foreign Relations Vol VII p. 922-23

23 Dec 1949

Dear Mr. Secretary,

On October 3rd, you wrote me requesting advice as to the essential security requirements of the United States in a peace settlement with Japan. This presented military questions of great seriousness and difficulty, which depended in some degree upon legal questions.

I regret that it has not been possible to answer your letter at an earlier date, but I know that you have been kept informed of the reasons which prevented this.

Inclosed is the opinion from the Joint Chiefs of Staff which I have just received. I concur in this opinion.

I am concerned about the psychological effect upon the Japanese—and therefore about the effect upon the success of our occupation—resulting from the wide-spread public discussion during recent months about an early treaty, including extensive debates in the Japanese Diet. This prospect has raised great hopes in Japan. I feel that we must promptly give consideration to the steps necessary to deal with this very real problem.

Sincerely yours,

/s/ Louis Johnson

Enclosure - 1

The Honorable

The Secretary of State

TOP SECRET

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TOP SECRET

THE JOINT CHIEFS OF STAFF

Washington 25, D.C.

22 December 1949

MEMORANDUM FOR THE SECRETARY OF DEFENSE:

Subject: Japanese Peace Treaty.

The Joint Chiefs of Staff have formulated the following statement of their views concerning negotiations, at this time, leading toward a Japanese peace treaty, together with a statement of United States treaty requirements for military forces and bases in Japan:

a. On 6 May 1949, the President determined it to be national policy that it was then premature to press for a peace treaty with Japan (NSC 13/3). On 9 June 1949, in response to any inquiry by the Department of State, the Joint Chiefs of Staff reaffirmed their view that a peace treaty with Japan was premature. This expression of views was forwarded on 14 June 1949 by the Secretary of Defense to the National Security Council (NSC 49).

b. The Joint Chiefs of Staff have again re-examined the military and national security factors involved in the matter of an early peace treaty with Japan, and in doing so have taken note of:

(1) The unsettled political and military conditions and uncertain military action in the Asian continental areas near Japan;

(2) The highly unstable political and military situation in Taiwan and in southeast Asia, both subject to relatively rapid deterioration and change;

(3) The fact that a treaty consistent with the terms of the armistice by which Japan surrendered could not at this time assure the denial of Japan's ultimate exploitation by the USSR or assure her orientation toward the western powers.

TOP SECRET

During this period of political and military instability in the Far East the following are the minimum military requirements of the United States as to forces and bases in the islands of the Japanese Empire, not considering Taiwan and the Pescadores:

a. The United States to be the only foreign power which would have military forces and base rights in any of the Japanese islands to the southward of Sakhalin and the Kurils Islands;

b. Arrangements whereby the United States strategic trusteeship over the Marianas, Caroline, and Marshall Islands would not be disturbed by any provision of the treaty;

c. The United States to secure exclusive long-term strategic control of the Ryukyu Islands south of latitude 29° north, Marcus Island, and the Nanpo Shoto south of Sofu Gan; and

d. The Joint Chiefs of Staff would expect that the United States forces to be stationed in Japan would be somewhat less than at present and that bases would be required:

(1) On Okinawa, together with such other facilities in the areas delineated in subparagraph c above as are deemed essential by the Joint Chiefs of Staff;

(2) At Yokosuka, as a protected naval base (NSC 13/3 and NSC 49); and

(3) In the four main islands of Japan, Army and Air Force bases generally as at present.

From the military point of view the Joint Chiefs of Staff consider that a treaty to be acceptable must include both the USSR and the de facto Government of China as party signators to the document.

In light of the conditions noted paragraph 1 b above and since it is apparent that the minimum military requirements and the requirement that the USSR be a party signator to the document are probably mutually exclusive, the Joint Chiefs of Staff reaffirm their previous view that negotiations now, leading toward a peace treaty with Japan, are still premature.

If, nevertheless, it is decided that peace treaty negotiations shall be undertaken, it is requested the Joint Chiefs of Staff collaborate in the formulation of those terms of the treaty having military implications.

For the Joint Chiefs of Staff:

/s/ Omar N. Bradley

OMAR N. BRADLEY,

Chairman,
Joint Chiefs of Staff

Tab 14

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THE FOREIGN SERVICE
of the
UNITED STATES OF AMERICA

PERSONAL AND
TOP SECRET

December 9, 1949

EXCERPT FROM LETTER OF DECEMBER 9
FROM THE ACTING POLITICAL ADVISER IN TOKYO
TO MR. BUTTERWORTH

General MacArthur said that he wished me to make it absolutely clear to the Department that he, General MacArthur, has not changed his views and that he agrees in toto with what the Department is doing and with the procedures and concepts adopted, and that the Department may rely upon his unqualified support. He hopes that the Department will proceed as planned and that it will be able to meet the time schedule in presenting a draft of some kind to the British for their consideration at Ceylon. He feels that only in this way will it be possible to evolve a satisfactory treaty which has some chance of being acceptable to all or most of our Allies.

With respect to the security provisions of the treaty draft, General MacArthur said that he gave his views to Mr. Voorhees along the following lines: It is essential that Japan have security. He is first and foremost in favor of neutralization by all the Powers concerned, somewhat along the lines of the Monroe Doctrine. If, however, it is felt that a neutralization compact does not accord real security for Japan, then he would propose the granting of a limted number of bases in Japan to the United States, with a total force not exceeding, say, 35,000 men. The bases which he specifically recommended are Yokosuka (as a naval base), and three air bases located, respectively, in the north, center, and south. Even this grant on the part of Japan, however, must be voluntary and subject to cancellation upon notice by the Japanese. Troops maintained in Japan should be entirely self-supporting and would have no right of interference with the prerogatives of the Japanese Government. In any event, the granting of bases should be for a limited period.

LEGAL SITUATION RESULTING FROM TREATY OF PEACE WITH JAPAN BY U.S. AND FRIENDLY ALLIES INVOLVING U.S. BASES IN JAPAN, TO WHICH THE U.S.S.R. IS NOT A PARTY

Before starting in motion a series of events which might result in a peace treaty between the United States and other countries with Japan, an analysis must be made of the legal situation which would result if the U.S.S.R. was not a party to such a treaty.

At the outset, it should be stated that it is impossible to give a categorical legal opinion on this question at this time because the nature of events which lead up to this situation may exercise a controlling influence on the legal effect of such a treaty. This difficulty is further increased by the fact that the Soviet reaction to such a situation may take various forms, now impossible to predict.

The legal problems which such a situation would present fall into two general categories. The first category includes those problems which relate to the propriety of the United States and other countries entering into a peace treaty with Japan to which the U.S.S.R. is not a party. The second category relates to the effect which such a peace treaty would have on the future relationships between the U.S.S.R. and Japan, more particularly to the demands which the U.S.S.R. might make upon Japan based upon the contention that a state of war continues to exist between them.

I. PROPRIETY OF THE U.S. AND OTHER COUNTRIES ENTERING INTO A PEACE TREATY WITH JAPAN TO WHICH THE U.S.S.R. IS NOT A PARTY

In considering the legal effect of the Japanese surrender, the basic document is the Potsdam Proclamation of July 26, 1945. That proclamation called for the unconditional surrender of all Japanese armed forces. It outlines certain definite objectives; the elimination of those who had misled the people of Japan into embarking upon world conquest; certain territorial readjustments; complete disarmament of Japanese military forces; stern justice to war criminals; removal of obstacles to the revival of democratic tendencies; the establishment of fundamental human rights; the prohibition of industries that would enable her to rearm for war; but the maintenance of industries which would sustain the Japanese economy and permit the exaction of just reparations in kind. The Proclamation made it clear that until these objectives had been attained there would be an allied occupation of Japan.

Paragraph 7 of the Proclamation provided as follows:

"Until such

"Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth."

On the other hand, it was equally clear that as soon as these objectives had been accomplished the occupation was to be terminated.

Paragraph 12 provides:

"The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government."

The Instrument of Surrender, signed on September 2, 1945, proclaiming the unconditional surrender of all Japanese armed forces, constituted an acceptance of the provisions of the Potsdam Proclamation. The first paragraph of this instrument stated as follows:

"We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions set forth in the declaration issued by the heads of the Governments of the United States, China and Great Britain on 26 July 1945, at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four powers are hereafter referred to as the Allied Powers."

These are the basic agreements between the victorious allies and Japan. Although they contain certain standards, they did not in themselves contain any procedures for defining these standards or for defining how the Allies would act among themselves in determining whether these standards had been complied with. The only other agreement that has been etered into regulating the relationships among the Allies with respect to Japan is the Moscow Agreement, establishing the Far Eastern Commission and Allied Council for Japan, which was entered into on December 27, 1945. This agreement, however, did not provide for a procedure for determining when the occupation policies set forth in the Potsdam Proclamation had been complied with to the extent that the occupation should be terminated. It provided rather for a mechanism under which, during the period of the occupation, compliance with these policies could be supervised. The procedure which it established was a majority vote of the members, including unanimity of the representatives of the U.S., U.K., U.S.S.R., and

China.

China. It provided that in the event of emergency the United States as the channel of directives to the Supreme Commander, could issue interim directives on urgent matters not covered by policies already formulated by the Far Eastern Commission; but it expressly provided that no such directive could change "the regime of control" without the agreement of the Far Eastern Commission, acting in the manner above described.

From this pattern of agreement the following points emerge:

1. There are obligations among the Allies themselves to formulate joint policies during the occupation, designed to achieve the objectives of the occupation:

2. The Allies collectively have promised Japan to end their occupation when the occupation objectives have been achieved; and

3. The agreements do not expressly deal with the method by which the Allies should determine whether or not the objectives of the occupation have been achieved.

The lack of any clear agreement as to procedure, however, cannot be said to limit the obligation of the Allies towards Japan to terminate the occupation when the occupation objectives have in fact been achieved. To hold otherwise would mean that all the terms of the Potsdam Proclamation were purely illusory, since failure by one power to admit that they have been satisfied, for any reason, or even for no reason at all, would prevent the obligation to terminate the occupation from ever taking hold. It is not believed that such a construction could seriously be advanced in view of the solemn nature of the instruments offering and accepting the Potsdam Proclamation terms.

There is no doubt, however, that a series of inter-Allied agreements, beginning with the Declaration of the United Nations of January 1, 1942 and continuing with the Moscow Agreement of October 1943, the Teheran Agreement of December 1943, and the Crimean Agreement of February 11, 1945 have established, in more or less general terms, the pattern of unanimity among the U.S., the U.K., the U.S.S.R. and China in dealing with matters of this kind. There is no doubt also that this pattern of unanimity is consistent with the express requirement of unanimity for decisions in the FEC concerning the occupation itself. As a result, the United States is under obligation to consult in good faith with the U.K., the U.S.S.R., and China, as well as the other adherents to the Potsdam Proclamation, on the issue of whether the occupation objectives set forth in that document have in fact been complied with and to seek, in good faith, to reach an agreement on this point. If such good faith efforts have been attempted and have failed, and, as objective a determination as the circumstances permit has been made that the occupation objectives have in fact been attained, the U.S. would be justified in terminating the occupation by a treaty of peace in order

to fulfill

to fulfill its obligation to Japan to do so. The forum which would make the determination is one of the important questions relating to procedure with which this opinion does not deal.

It should be noted, in this connection, that the U.S.S.R. is likewise obligated to Japan as well as to its Allies with respect to termination of the occupation. The obligations of the Allies to act in concert with respect to the formulation of occupation policy presuppose a continuing need for the occupation itself. It is thus clear that if the occupation objectives have been satisfied, the continuance of the occupation would be contrary to the Potsdam obligation of the Allies toward Japan; therefore, the essentially subsidiary Moscow Agreement concerning unanimity of the Allies in formulating occupation policies could no longer be deemed binding upon any of the parties thereto.

In any determination concerning the attainment of occupation objectives a considerable amount of common sense and humility is necessary. There are some occupation objectives which are concrete (justice to war criminals, disarmament of the Japanese armed forces) and thus present no difficult problems, but there are others, such as respect for fundamental human rights, the establishment of a democratic system, and the elimination "for all time" of the influence and authority of those who deceived and misled the Japanese people, which are timeless and really represent aspirations toward which the Allies considered Japanese society must be directed. A yardstick approach to these objectives would inevitably find that they have not been attained or, very likely, achieved completely in the long future.

The question will undoubtedly arise as to whether the proposed treaty arrangements, more specifically the arrangement under which U.S. troops would continue to be stationed in Japan, are inconsistent with the view that the occupation objectives of the Potsdam Proclamation have been achieved. There are two reasons for the continued stationing of troops in Japan, one of them held by the United States and another held, with varying degrees of intensity, by its friendly allies. The first and most important reason is that, in the absence of any agreement enabling the Security Council of the United Nations to assume responsibility for the continued security of Japan, the continuation of U.S. forces in Japan is essential to avoid leaving it defenseless against direct or indirect aggression, thus creating a situation that might lead to international friction and a possible breach of the peace. No claim can be made that this reason is in any way inconsistent with a finding that the occupation objectives of the Potsdam Proclamation have been achieved. Here again, however, the forum for determining the question whether international peace and security requires continued stationing of U.S. troops in Japan after an Allied occupation is terminated assumes considerable importance, involving, so far as its general acceptability is concerned, the most objective determination which the circumstances permit.

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The second reason--undoubtedly representing a contributing reason on the part of many of the friendly allies, particularly those located in the Far East--is that the continued stationing of such troops is necessary as a source of continuing pressure on the Japanese for the purpose of seeing that they continue to act in the manner which has led the Allies to the view that they have satisfied the occupation objectives of the Potsdam Proclamation. It is assumed that the consent of the Japanese to the stationing of such troops is completely voluntary. It is also assumed that the primary reason for the security arrangements is the safety of Japan itself. The fact that some of the countries may obtain an added sense of security from this arrangement, which the Japanese are perfectly willing to enter into, does not weaken the position of the friendly Allies, provided that it does not represent an underlying belief on their part that, no matter what was said, the occupation objectives had not in fact been attained.

II. EFFECT WHICH A PEACE TREATY WITH JAPAN TO WHICH THE U.S.S.R. IS NOT A PARTY WOULD HAVE ON FUTURE RELATIONS BETWEEN THE U.S.S.R. AND JAPAN.

Until Japan and the U.S.S.R. have signed a peace treaty, the U.S.S.R. has the right to assert a continuing state of war with Japan. In this connection it continues to retain all the rights of a belligerent except to the extent that such rights are modified by the Potsdam Proclamation and its acceptance by Japan in the surrender document. If the U.S. and its friendly Allies enter into a treaty of peace with Japan as a result of Japan's living up to the occupation objectives set forth in the Potsdam Proclamation, the failure of the U.S.S.R. to agree to this action does not free it from the obligation which it assumed when it adhered to the Proclamation and accepted the Surrender. A belligerent has no right to occupy the territory of one whom he has defeated except insofar as he does so by force or agreement. The U.S.S.R. agreed to terminate active hostilities with Japan and participate in an Allied occupation until the Potsdam Proclamation occupation objectives had been attained. It merged whatever separate occupation demands it may have wished to assert in the Allied occupation in which it participated. If the occupation objectives are found to have been attained, the Allied occupation, representing the U.S.S.R. as well as the other Allies, is obliged to end. The U.S.S.R. would under those circumstances have no greater right to a separate occupation than the other Allies would have to a continued occupation; paragraph 12 of the Potsdam Proclamation prevents either one. It is recognized that there is a certain air of unreality in talking about whether the U.S.S.R. is or is not bound by these documents since there exists no body which can enforce obligations of this nature. Under the circumstances, the limitations which these documents place on the rights which the U.S.S.R. might otherwise have can be enforced only when the power relationship is such that the friendly Allies are in a position to insist upon the U.S.S.R. respect them.

The U.S.S.R.

The U.S.S.R. could successfully assert the right to seize all the property of Japan in its territory and to treat all Japanese civilians as enemy aliens since these are normal belligerent rights not interdicted in the Potsdam Proclamation and surrender instrument. The U.S.S.R. might further assert the right to seize Japanese shipping, a traditional right of belligerents. The Allies might well assert that if carried out on any large scale the exercise of such rights would be precluded by paragraph 11 of the Potsdam Proclamation, which promised that Japan would be permitted to maintain such industries as will sustain her economy and would be given access to raw materials. The shipping and fishing fleets of Japan undoubtedly may be characterized as an essential part of Japan's economic life, the shipping fleet particularly being important if Japan is to have access to raw materials. Here again the power relationship would probably be controlling.

It has been suggested that the U.S.S.R. might assert the right as a belligerent to attempt to occupy Japan by force. The assertion of such a right would, of course, involve a resumption of hostilities. Here again, if the occupation objectives of the Potsdam Proclamation had been met, the U.S.S.R. has given up this right under the terms of the Potsdam Proclamation and surrender instrument. Such a resumption of hostilities would be a threat to the peace under Article 39 of the United Nations Charter and would justify action by the other Allies under Article 51. The limitations in Article 107 would not apply.

L:ASFisher

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Tab 4 9

TOP SECRET

MEMORANDUM

To: The Secretary November 15, 1949

From: FE - Mr. Butterworth
S - Mr. Howard

Subject: Reactivation of Japanese Armed Forces

Policy decision to be made

The policy decision to be made is whether to advise the Department of Defense now of the views of the Secretary of State concerning some of the reasons why he does not regard it as feasible to authorize the reactivation of Japanese armed forces in the proposed peace treaty with Japan.

Discussion

At the request of the Department of State, the Department of Defense is actively considering U.S. security requirements in relation to the proposed Japanese peace treaty. In view of the shortness of time before a U.S. draft treaty should be presented to Secretary Bevin in order to meet the deadline of the meeting of British Commonwealth nations in January, the Department of State is endeavoring to expedite the decisions within the Department of Defense. It is believed that if the Secretary of State firmly indicated now, as a guide to the Department of Defense officials, some of the reasons why he does not regard it as feasible in the peace treaty to authorize reactivation of Japanese armed forces, the determination by the Department of Defense of U.S. security requirements in Japan in the post-treaty period can be more clearly focussed on such other issues as the bases and U.S. forces, if any, that need to be retained in Japan. If on the other hand the Department of Defense should decide, in the face of the reasons advanced by the Secretary of State, that the security of the U.S. would require the authorization of Japanese rearmament in a peace treaty, then the Secretaries of State and Defense could at once consult as to whether it is possible to have any peace treaty at this time.

General MacArthur has already indicated to the Department of Defense his strong opposition to the reactivation of Japanese armed forces. Although his preferred solution of the security problem in relation to Japan would be the demilitarization and neutralization of Japan guaranteed by the Big Powers, he recognize that this solution would not be acceptable to the United States so long as the word of the Soviet Union can not be relied upon

and he

and he therefore endorses the retention in the post-treaty period of U.S. bases in Japan and limited U.S. forces to man and protect them.

Nevertheless, there are strong supporters among officials of the Department of Defense for Japan's rearmament and a paper prepared at the working levels recommended that the peace treaty authorize the reactivation of Japanese armed forces. The problem has not yet reached the Joint Chiefs of Staff and the Secretary of Defense. Underlying almost all the reasons given by the military planners for rearming Japan is the strategic concept that Japan must be defended by armed force, if necessary, to prevent its falling into the Soviet orbit. If the peace treaty does not authorize Japanese armed forces, it is reasoned that the above strategic concept would require the retention in Japan of a disproportionately large share of U.S. armed forces for the purpose of defending Japan, whereas reactivation of Japanese armed forces would permit withdrawal of some U.S. forces from Japan without basically altering our security position in the Pacific and would be a valuable and perhaps indispensable asset in the event of all-out war. It is further reasoned that once a peace treaty comes into force the pressure of U.S. public opinion to bring American boys back home and let the Japanese defend Japan, coupled with military emphasis on the European theater, would make a reduction in U.S. forces in Japan below the safety margin from the security standpoint almost inevitable. It is further reasoned that because of the time that is required to train Japanese armed forces, postponement of their reactivation would only result in further delay which the United States cannot risk.

It is noteworthy that the reactivation of Japanese armed forces, for which there is strong support among military officers in the Department of Defense, would be diametrically opposite to the views expressed by the JCS in NSC 49 "there should be prior assurance of Japan's economic, psychological, and political stability, and of her democracy and western orientation" before the peace negotiations are undertaken. Whereas the Department of State believes that the conclusion of a peace treaty will work in favor of Japan's pro-Western orientation, it believes that the safeguard referred to by the JCS is important before authorizing Japan to have armed forces. A proposal for present reactivation of Japanese armed forces would completely ignore the safeguard referred to by the JCS.

Recommendation

That the Secretary approve the informal submission of the attached paper to the Department of Defense officials as an

indication

indication of his views on the issue of the authorization of Japanese armed forces in the peace treaty.

S:JBHoward:bh

Cleared by
Mr. Jessup
S/A

Cleared by
Mr. Davies
S/P

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TOP SECRET

POSITION OF DEPARTMENT OF STATE ON

REACTIVATION OF JAPANESE ARMED FORCES

The purpose of this memorandum is to provide the Department of Defense, for the purpose of facilitating their determination of U.S. security requirements in Japan in the period following the proposed peace treaty, with some of the reasons why the Department of State does not regard it as feasible in the treaty to authorize reactivation of Japanese armed forces.

It is assumed (a) that a treaty of peace with Japan should be entered into promptly, provided that U.S. security can be adequately provided for; (b) that Japan should be permitted to maintain a well equipped constabulary, including a coast guard, for the purpose of preserving internal order; and (c) that the Department of Defense may determine as a result of its study that U.S. security requires the retention of U.S. bases and U.S. armed forces in Japan in the immediate post-treaty period.

The position of the Department of State is that, for political reasons, it is not feasible in the treaty of peace to authorize the reactivation of Japanese armed forces. No decision should be made now in favor of reactivation of Japan's armed forces, either now or at a future time designated now. At the same time the United States should not foreclose by a present decision the possible reactivation of Japanese armed forces at some future time when this course might appear to be in our best interests.

Accordingly it is thought that, in the absence of a possible United Nations formula for this security problem the treaty of peace should envisage the continued demilitarization of Japan but should provide for a general review of the security clauses of the treaty by the signatory powers at a time or times in the future to be flexibly determined. In practical implementation of this provision, the security arrangements could be subjected to continuous reappraisal by the representatives of the signatory powers in the light of changing conditions in Japan and elsewhere so that a review conference of the signatory powers could be promptly called whenever circumstances might warrant. Although the provision for review would not refer specifically to the question of Japanese rearmament, when such a review were made the possibility of reactivation of Japan's armed forces in partial substitution for, or in conjunction with a withdrawal of, U.S. security forces could be explored.

The principal

The principal reasons for this position are as follows:

1. The primary objective of the United States in relation to the security aspects of a Japanese peace treaty under present conditions of a cold war is the prevention of the outbreak of war rather than measures of military defense against actual armed attack by the Soviet Union. Prevention can be best achieved in the immediate post-treaty period, in the absence of a possible United Nations formula, through the presence of U.S. forces in Japan on behalf of the signatory powers and at Japan's request as evidence of U.S. determination to regard an armed attack against Japan as provocation to an all-out war.

2. U.S. aid and the efforts and resources of Japan should be concentrated, on the one hand, upon the accomplishment of the objective in paragraph 1 and the maintenance of a strong Japanese constabulary and, on the other hand, upon the achievement of economic and social progress which in the long run will greatly influence the continued orientation of Japan toward the United States. This balance would be upset by the premature diversion of aid, efforts and resources to the maintenance of a Japanese military establishment.

3. A decision to rearm Japan should not be made without relation to the determination of the Japanese to continue or abandon the renunciation of war and armed forces in their Constitution. It is significant that to date no strong pressures have developed within Japan in favor of abandonment. Authorization of rearmament in the peace treaty without the expressed will of the Japanese through voluntary amendment of their Constitution would appear to be imposed upon the Japanese for the purpose of promoting the strategic military interests of the United States.

4. A decision to reactivate Japanese armed forces should not be made without more adequate assurances than are now present that Japan will continue to be friendly, or at least not hostile, toward the United States. Should Japan become hostile, any armed forces and war supporting industry in Japan would, if made available for use against the United States, greatly augment the war potential of the Soviet Union and Communist China.

5. A

5. A present proposal for the reactivation of Japanese armed forces either now or in the future would constitute a sharp break with Japan's renunciation of war and armed forces and with U.S. occupation policies. The result might be to cast serious doubts among the Japanese concerning the sincerity of U.S. purposes and the validity of the objectives of the occupation, thereby weakening U.S. influence and the influence of democratic principles in Japan, both of which are necessary to offset communist influence in Japan.

6. A proposal to rearm Japan would probably be viewed with alarm by Australia, New Zealand, the Philippines and other Allied powers that continue to fear a renascent nationalistic and aggressive Japan. It is also likely that the attitude of France and certain other European powers toward the peace treaty would take into account its possible affect as a precedent for the reactivation of Germany's armed forces. It is preferable to retain the full support and cooperation of the other Allied powers friendly to the United States as well as the moral and psychological advantages that would derive from the position that U.S. security forces are being maintained in Japan on behalf of the other signatory powers in the absence of the United Nations' assumption of full responsibility for the maintenance of peace and security with respect to Japan.

S:JBHoward:th
11/16/49

Cleared by
Mr. Jessup
S/A

Cleared by
Mr. Davies
S/P

COPY

Tab 8

10

TOP SECRET

MEMORANDUM

Japanese Peace Treaty

It will be recalled that over two years ago agreement was reached within this Government on the desirability of proceeding with a treaty of peace for Japan, but that the ensuing efforts of this Government to achieve that objective broke down when it became evident that the eleven FEC powers could not agree on a procedure for the peace conference. All of the countries except the Soviet Union accepted our proposal for an eleven-power conference and all except the Soviet Union and China accepted our proposal that voting be by two-thirds majority.

The desirability of a peace treaty (in which U.S. security interests are adequately safeguarded) appears even greater today. Japan has benefited from two more years of occupation, permitting more thorough assimilation of the various reform programs and the achievement of greater political and economic stability than had previously obtained under the occupation. The Japanese people have, as General MacArthur stated on the fourth anniversary of the Japanese surrender, "faithfully fulfilled their surrender commitments and have earned the freedom and dignity and opportunity which alone can come with the restoration of a formal peace".

The question now arises whether the primary objectives of U.S. policy toward Japan--namely, the emergence of a stable, democratic nation friendly to the U.S.--have better prospects of realization through continued occupation or through the early conclusion of a liberal peace settlement.

In considering this question, it would seem that continued occupation is bound increasingly to encounter a number of serious difficulties:

(a) Virtually all elements of the Japanese population favor an early treaty, provided adequate provision is made for Japanese defense. The thwarting of this natural desire on the part of a traditionally proud and patriotic people invites resentment toward the occupation and toward the U.S. as the principal occupying power--a situation susceptible of exploitation by the Communists;

(b) It

(b) It is doubtful whether in the absence of a peace treaty the Japanese will develop requisite responsibility and initiative for the solution of the difficult economic problems with which their country is faced. The tendency of many Japanese leaders to hide behind the occupation and to transfer the blame for unpopular measures to it is likely to remain;

(c) In the face of mounting demands for a peace treaty from almost all other FEC countries the U.S. is under increasing pressure as the leading occupying power to bring about a peace treaty, despite the probability that the USSR and Communist China would not participate. Failure to demonstrate our desire for a peace treaty may undermine Japanese friendship for the U.S. and bring about increased FEC resistance to U.S. occupation policies. In this connection, even friendly FEC countries have opposed recent U.S. efforts to expand Japan's international relations, to obtain most-favored-nation treatment for Japan, and otherwise to restore Japan to a more normal position in the community of nations. These FEC countries have insisted that such measures await the conclusion of a peace treaty. Their opposition to U.S. policies constitutes a serious obstacle to the revival of Japanese foreign trade and to the attenuation of wartime fears and hatreds of Japan.

While it is believed that these and other factors argue strongly in favor of an early peace treaty, the U.S. would of course be ill-advised to proceed in that direction unless it had reasonable assurance that the provisions of the treaty would recognize the strategic requirements of the U.S. in the Western Pacific.

The conversations between Mr. Acheson and Mr. Bevin now offer hope that at least the U.S. and friendly FEC countries can agree not only on a common procedural denominator but on a treaty draft which would safeguard this country's interests in Japan and the Western Pacific. Specifically, Mr. Bevin has expressed sympathy for a liberal,

non-punitive

non-punitive treaty for Japan, and has volunteered the suggestion that U.S. strategic needs in this area be met through a separate U.S.-Japan agreement providing for the retention of U.S. security forces and bases in Japan in the post-treaty period. He has suggested that the U.S. Government draft a treaty of this nature for confidential discussion with the U.K. Government and, if the latter agrees with the draft, he has offered to undertake to enlist the support of the other Commonwealths to that draft at the Commonwealth Foreign Ministers Conference in Ceylon in January, 1950. Assuming that such a course of action were successfully followed, including similar diplomatic approaches subsequently to other friendly FEC countries, and that the U.S. obtained firm prior undertakings by an adequate number of countries that they would support us on the essential provisions of the U.S. treaty draft, the U.S. might well find itself in a position where it could invite the FEC nations to a peace conference on the same procedural basis as it did before.

It is doubtful that the USSR (supported by Communist China) would consent to participate in a treaty conference without the power of veto; but even if it did, there is every reason to expect that it would refuse to accept any treaty containing the security provisions upon which this Government would insist. Obviously a treaty participated in by all the FEC countries is preferable, but is unlikely of attainment so long as the Soviet Union persists in its present expansionist course. A peace treaty at this time, therefore, would almost certainly have to be concluded without the participation of Japan's two most important neighbors. Provided we can obtain the kind of treaty we desire, it is felt that this contingency need no longer deter us.

As to the nature and content of the treaty, preliminary thinking within the Bureau of Far Eastern Affairs is that the settlement should restore Japan to a genuinely sovereign status with a minimum of restrictions and special disabilities. The treaty, though just, should be as liberal as any the Soviets or Communist China might independently offer at a later date in an effort to undercut us with the Japanese.

Specifically,

Specifically, it is believed by this Bureau that although Japan should be required to preserve a truly representative form of government, including the protection of fundamental human rights, it should not be obligated to continue particular social and economic reform programs sponsored by the occupation, most of which appear by now to have won sufficient popular support to ensure their continuation under normal political processes. It is further believed that the treaty, after confirming transfer of Japanese overseas assets to the governments of the nations at war with Japan in which they are located, should relieve Japan of obligation to pay further reparations. Special post-treaty control machinery to supervise the execution of the treaty is not envisaged. Provisions regarding future U.S. economic aid to Japan, and payment for past aid, would be contained in a separate U.S.-Japan agreement or agreements.

In the field of territorial adjustments, U.S. policy set forth in NSC 13/3 would require the detachment from Japan of the Ryukyus south of 29 degrees N. Latitude, Nanpo Shoto south of Sofu Gan, and Marcus Island. In view of the fact that the Ryukyus possess a large native population, that the military prerogatives of the administering power are the same in practice for an ordinary as for a strategic trusteeship, and that applications for strategic trusteeships are subject to veto in the Security Council, it is believed that we should obtain commitments from our Allies in the pre-treaty discussions to support an application by this Government for the placing of these islands under an ordinary trusteeship with the U.S. as administering authority. Support for a strategic trusteeship under U.S. administration would be sought for Nanpo Shoto south of Sofu Gan and for Marcus Island, in order to meet the previously stated desires of the JCS for a strategic trusteeship over these islands and in recognition of the islands' small population and of the possibility that the USSR might conceivably approve a strategic trusteeship for Nanpo Shoto and Marcus, as it did for the former Japanese Mandates directly southward. If the application should be vetoed in the Security Council we would presumably apply for an ordinary trusteeship.

Pursuant to the Yalta Agreement, Sakhalin south of 50° N. Latitude and "the Kurile Islands" would be ceded to the Soviet Union. Since a good historical case can be made that the term "the Kurile Islands" refers only to the islands north of Etorofu Straits, and since there are political, economic,

and

and strategic reasons why the retention by Japan of the islands south of these straits (Etorofu, Kunashiri, the Habomais and Shikotan) would be desirable, it is believed that the United States should take the position that these islands do not form part of "the Kurile Islands" and should be left to Japan. Formosa and the Pescadores would be ceded to China pursuant to the terms of the Cairo Agreement of December, 1943. Also in accordance with the Cairo Agreement, Japan would be required to renounce in favor of the Government of Korea all rights and titles to the Korean peninsula, including all offshore Korean islands, Quelpart and the Nan How group.

The thinking of the Bureau of Far Eastern Affairs on the security aspects of the treaty has been assisted by the report "Current Strategic Evaluation of U.S. Security Needs in Japan" (NSC 49, June 15, 1949), prepared by the Joint Chiefs of Staff. The statement is made in paragraph 10 of that paper that if peace negotiations are to be undertaken in the near future "no definite time should be set in the peace treaty for withdrawal of occupation forces", and that "the occupation should be terminated only after it has been determined and agreed that conditions are sufficiently satisfactory to justify termination". Although it is believed, as it is assumed the Joint Chiefs of Staff believe, that the treaty should provide for termination of the occupation as presently constituted, including the present regime of control, this Bureau concurs in the view that U.S. forces must be retained in Japan until U.S. security interests permit their withdrawal. Since, however, there is likely to be a strong demand in Japan for the withdrawal of our forces by a specific date, it is believed that a date should be set, but that we should be obligated to withdraw our forces by that date only if satisfactory alternative security arrangements have been established for Japan. Retention of U.S. forces in Japan after the treaty was actually suggested by Mr. Bevin and it is believed will be acceptable to other friendly FEC nations and to the great majority of Japanese.

It is our thought that arrangements governing the stationing of U.S. security forces in Japan after the treaty would be set forth in a separate bilateral agreement between the United States and Japan, instead of being incorporated in the treaty itself, which latter would, however, specifically envisage such an arrangement. The forces, in our view, should have no connection with Japanese governmental

operations

operations, and should be stationed in defined base areas outside of the main Japanese centers of population on a self-supporting basis, i.e., all goods or services requisitioned or otherwise obtained from the Japanese to be paid for in dollars. The garrison commander would be empowered to employ his forces to quell civil disturbances in Japan at the request of the Japanese Government or to insure the safety of his troops. In the event of armed attack against Japan the Japanese Government would be required to afford the commander full cooperation for the defense of Japanese territory. The United States would be free to increase or reduce its forces as security considerations dictated but would be required to withdraw them entirely by a fixed date if satisfactory alternative security arrangements have been previously established.

The concern expressed by the Joint Chiefs of Staff in NSC 49 that Japan possess adequate internal security forces in the post-treaty period is shared by this Bureau, which would favor treaty provisions permitting Japan to build up a national guard or constabulary. We have long advocated the development of stronger centrally directed police forces in Japan in anticipation of treaty status.

Regarding the establishment of Japanese defense forces, the JCS state that "since there can be no guarantee in the present world situation of the sovereignty of a defenseless Japan, there should be plans, as previously recommended by the Joint Chiefs of Staff, for limited Japanese armed forces for self-defense to be effectuated in war emergency, and, in any case, unless the general situation makes it clearly unnecessary, prior to departure of occupation forces from Japan". The JCS position is understood from this statement to be that Japanese defense forces should be established in the post-treaty period to assume responsibility for Japanese security, with such continuing military assistance and guarantees as we may provide, after the withdrawal of our forces. The JCS give no indication, however, of when the establishment of Japanese defense forces may become desirable, except that the forces must, "unless the general situation makes it clearly unnecessary", be in existence before the withdrawal of our forces, the time of which is also indefinite.

While

While recognizing that these dates cannot be accurately predicted at this time, some indication of the earliest date at which commencement of the construction of Japanese defense forces may become desirable is necessary. Only if an approximate date is known will it be possible to draft the relevant treaty provisions so as to meet U.S. requirements on this score but not to exceed those requirements, unnecessarily jeopardizing possibilities of acceptance of the treaty by nations fearful of Japanese rearmament. If the JCS consider that the Japanese should be permitted to begin the establishment of defense forces immediately or within two or three years after the signing of the treaty, it would be necessary, if this position were approved, to authorize such forces in the treaty and to define the size and character of the forces to be permitted. Possibilities of acceptance of such a treaty by more than a small proportion of FEC nations appear slight, however, in view of the strong opposition among the FEC membership generally to Japanese rearmament. Chances of the treaty's winning the necessary amount of support would be far greater if the JCS, not envisaging the establishment of Japanese defense forces until five, ten, or fifteen years hence, were willing to accept a treaty providing for Japan's continued disarmament but stipulating that the matter be reexamined by the signatories after a fixed number of years (some time in advance of the date tentatively set for withdrawal of U.S. forces from Japan) under a voting procedure which would require U.S. assent to a continued prohibition on the establishment of Japanese defense forces.

For the reasons stated earlier in this memorandum, it is believed that we should now move toward the conclusion of a Japanese peace treaty. Preparation of a treaty draft has accordingly been begun within the Department of State. As a first step in the preparation of the military clauses of the treaty Acting Secretary Webb has written to Secretary Johnson requesting advice on the essential security requirements of the United States in a peace settlement with Japan and enclosing copy of this Department's comments on NSC 49 as forwarded to the Executive Secretary of the NSC. It is hoped that Secretary Johnson's reply will include answers to the following questions:

1. Are

1. Are the terms of agreement governing the stationing of U.S. forces in Japan in the post-treaty period as outlined above satisfactory from the military point of view? Certain of these terms are admittedly at variance with paragraph 6 of NSC 49, where the Joint Chiefs of Staff contend that stationing of our forces outside of Japanese population centers on a completely self-supporting basis would be impractical and inadvisable. It appears to us, however, that the psychological advantages of a treaty would be largely offset if this were not done.

2. Is it envisaged that commencement of the construction of Japanese defense forces will be desirable (a) immediately or within two or three years after the treaty comes into effect, or (b) five, ten, or fifteen years hence? If the former, is it the Defense Department's view that the early establishment of Japanese defense forces is of such importance that these forces must be authorized in any treaty concluded at this time, notwithstanding the very real likelihood that such a treaty would be rejected by an overwhelming majority of the FEC nations? (Should the Defense Department's reply to this question be in the affirmative it is hoped that we will be advised immediately because of the importance of this issue to this Department's entire treaty planning.) If the latter, would a treaty providing for Japan's continued disarmament but with provision that the matter be reexamined at a definite future date under procedures which would require U.S. assent to a continued prohibition on limited Japanese defense forces be satisfactory? If so, what should that date be?

3. What, if any, restrictions of Japanese industrial capacity will be required in the post-treaty period to insure against a revival of Japanese aggressive power? It is understood that a reply to Secretary Acheson's letter of July 8 to Secretary Johnson on this question has been prepared and is now before the Joint Chiefs of Staff for approval.

4. What, if any, restrictions are considered necessary in the post-treaty period on the importation of strategic materials into Japan?

As

As Acting Secretary Webb stated in his recent letter to Secretary Johnson, it is hoped that the Defense Department's advice on the security requirements of the U.S. in a Japanese treaty will be provided at the earliest possible date so that an agreed State-Army treaty draft evolved through close collaboration may be submitted to the NSC by mid-November.

W. Walton Butterworth
Assistant Secretary
for Far Eastern Affairs

FE:NA:RAFearey/db
MGreen

Tab 1

copy

In reply refer to
NA

October 3, 1949

TOP SECRET

Dear Mr. Secretary:

After the Cabinet meeting on September 16, Mr. Acheson outlined to the President and Mr. Early, who was representing you, the purport of his discussions with Mr. Bevin as to possible ways and means for going forward with the Japanese peace treaty. Mr. Acheson stressed the fact that the discussions with Mr. Bevin had been purely exploratory and that nothing would be done nor any commitments made until, with proper staff work, our proposals had received the President's approval. At the suggestion of the President, it was agreed that as a first step toward consideration of a peace treaty, this Department would address a written request to the Department of Defense for advice on the essential security requirements of the United States in a peace settlement with Japan.

I am therefore soliciting in this letter the advice of your Department with respect to our essantial security requirements should we, in the near future, attempt to negotiate a peace settlement with Japan. It is hoped that this advice will be provided in a form which would permit ready preparation of the military and security clauses of a treaty should it be decided to press forward with a Japanese peace settlement at this time.

In this connection, I am forwarding today to the Executive Secretary of the National Security Council

for

The Honorable
Louis A. Johnson,
Secretary of Defense.

TOP SECRET

for distribution to the Council members this Department's comments on the Joint Chiefs of Staff's strategic evaluation of U.S. security needs in Japan (NSC 49). These comments were prepared with the thought that they would provide the Department of Defense with helpful background thinking of this Department on the relation between political and military considerations respecting our basic objectives and policy toward Japan. For your convenience, I am attaching a copy of those comments to this letter.

Mr. Early has doubtless informed you of the circumstances which render our studies of the problem of a Japanese peace treaty of considerable urgency. Mr. Bevin informed Mr. Acheson during their recent conversations that if the United States Government would submit a draft of a Japanese treaty to the U.K. Government for consideration in advance of the Commonwealth Foreign Ministers Conference in January, he would, assuming the draft were acceptable to the U.K., endeavor at the Commonwealth Conference to enlist the support of the Commonwealth Governments for the draft. To provide such a draft in time, our two Departments would probably have to agree on its provisions by mid-November, so that the draft, as approved by the NSC and the President, might be presented to the British in early December.

I am convinced that we can hope to meet this schedule only by close collaboration from the outset. I therefore suggest that you consider detailing a high-ranking planning officer to participate in the preparation of the military and strategic sections of the draft and that this officer communicate immediately and directly with Mr. Butterworth, Assistant Secretary in charge of Far Eastern Affairs. On our part, I am prepared, if you so desire, to designate an officer from the Department of State to be available to the JCS planners.

In order that the Defense Department may be provided with a tentative political framework for its

recommendations

recommendations on the military and strategic sections of the treaty, your representative will be furnished at the initial meeting, which it is hoped may be within a few days, with a memorandum setting forth the preliminary views of the Bureau of Far Eastern Affairs on the procedures, general character and some of the principal points of content of the treaty.

Sincerely yours,

Enclosure:

State Department
comments on NSC 49.

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P
Y

TOP SECRET

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: September 17,1949

SUBJECT: Conversations with Mr. Bevin and Mr. Schuman on Far East

PARTICIPANTS:
Mr. Bevin
Mr. Barclay
Mr. Dening
Mr. Schuman
Ambassador Bonnet
Mr. Clappier
Mr. Acheson

~~XXXXXXXX~~ COPIES TO:
Mr. MacArthur
Mr. Merchant
Mr. Butterworth
Mr. Satterthwaite
Mr. O'Sullivan

1—1493

EXCERPT

Japanese Treaty

I reviewed our thoughts on the Japanese Peace Treaty, as I had done to Bevin in a previous meeting. I said that we were in favor of working out a Treaty soon, that our interests were so great in Japan that we could not get ourselves in a position in which we had to approve a treaty we did not like, or in which our failure to approve would result in a treaty going into effect without our consent. We would like help from the British and the French in laying the groundwork with the Commonwealth and other countries so that there would be assurance that a satisfactory treaty could be written. Schuman replied that the French thought a situation should develop in Japan, as it had in Germany, in which conditions approximating a treaty exist, without there actually being one. I agreed, and said that Japan should be allowed to send out trade representatives and have more freedom internally. Butterworth said that we had been trying to get Japanese representatives into various international organizations, and that while most of the members seemed to agree in principle, when it came down to actual admission they resisted in individual cases. Perhaps the British and the French could help in the Far Eastern Commission? Bevin said that the people who live near the Japanese, are anxious about them. We all should give more attention and thought to Japan.

Copies To: S/S G S/P S/A FE EUR UNA
E L London, Paris, Canberra, New Delhi
The Hague

EUR:BC:LLSatterthwaite

Tab 3

COPY

TOP SECRET

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: September 13, 1949

SUBJECT: Conversation with Mr. Bevin on the Far East

Published in Foreign Relations 1949 Vol VII pp. 757, 759

PARTICIPANTS: Mr. Bevin
Mr. Dening
Mr. Acheson
Mr. McGhee
Mr. Butterworth
Ambassador Jessup
Ambassador Douglas

COPIES TO: Mr. Satterthwaite

S/S	EUR	FE	NEA
G	S/A	S/P	E
UNA	P	ITP	London
Paris	Moscow	Canberra	

1—1493

EXCERPT

Japan

We have been thinking about what role Japan should play and about the Peace Treaty. As far as the Treaty is concerned, procedural problems are extremely difficult. If the writing of the treaty were put in the Council of Foreign Ministers, it would undoubtedly get stuck and in any case such a procedure would offend the other States that fought the Japanese war. We cannot have a treaty written for us which we have to sign or which goes into effect anyway if we don't like it. The only way out we can see is advance preparation with the United Kingdom and the Commonwealth and prior agreement among us on all the principal provisions. We think we should try to get together through diplomatic means with the Commonwealth countries on what should be in the treaty. We realize there may be difficulty with Australia, but we must try to overcome it.

Bevin said that he thought the Canberra conference of the Commonwealth countries had made a beginning on Japan, though perhaps we didn't like it possibly because he hadn't told us enough about it in advance. He said that at that time India was just on the point of leaving the Commonwealth and the situation was very delicate. He said he thought that any meeting

with the

TOP SECRET

with the Commonwealth countries on the subject of the Japanese Peace Treaty should be held in Australia, where the Prime Minister would be present, which would be much better than if Evatt were to come to Washington or elsewhere. Bevin said the problem was to get the Commonwealth to underwrite and agree on a treaty for Japan, acceptable to us, so the United States does not need to have veto power. The forthcoming November election in Australia might complicate things, but the Australians have been complaining that the scheduled Commonwealth Foreign Ministers meeting due Australia has not been held. Bevin said he thought he could get the Commonwealth together to write the basic provisions of the treaty which would be satisfactory to us. We should tell the British in advance what our requirements are. After some discussion it was agreed that January might be a good time for the Commonwealth meeting and that meanwhile we could line up our military and other elements of our Government and let Begin know what sort of treaty we wanted. Bevin then discussed the difficulties which Russia would bring forward on the issue of China and what government of China would take part in the talks on the treaty with Japan. Naturally Russia wants a Communist government of China recognized and while Russia will fight for the Council of Foreign Ministers writing the treaty, they might come in for wider conference of all who were in the war against Japan. Will we permit the Communist government to represent China at the Peace Treaty discussions and will Russia permit a Non-Communist government to represent China? I asked Mr. Bevin if Russia would come to the Peace Conference without veto power. Bevin said he thought they would in order to seize the opportunity thereby afforded of causing trouble in Asia. Russia can give away everything in Japan while the United States cannot. I said we don't want to <u>have</u> to agree to a treaty which Russia approves. Mr. Bevin agreed and then suggested that I talk to Nehru. He pointed out that India needs food, is 6 years behind on its irrigation projects, and needs our help. Perhaps under the circumstances Nehru can help us on the Japanese Treaty. I told Mr. Bevin that Mrs. Pandit hasn't said what Nehru will raise when he comes to Washington. Bevin then said that he did not think that Nehru would go against us and reiterated that there would be a meeting of the Commonwealth in January, (this time he mentioned Colombo rather than Australia) and that the British would need our views before then. I agreed to give them to him.

EUR:BC:LLSatterthwaite:NJE

INCOMING TELEGRAM

Department of State

TELEGRAPH BRANCH

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Control: 12470
Rec'd: March 27, 1951
5:01 a.m.

FROM: Canberra

TO: Secretary of State

NO: 264, March 27, 1 p.m.

Evatt in public statement Sydney last night said widespread indignation aroused by Dulles proposals rearm Jap and by complacency Menzies govt in accepting scheme as inevitable. Said proposals at complete variance with agreed decision Allied nations in 1945 and that agreement can not (rpt not) be altered without Austral consent which shld not (rpt not) be given. Evatt will probably push this view as election campaign material even though labor feeling on point may not (rpt not) at present be as strong as Evatt says it is.

Press reports that Burton returned from Colombo last night (despatch 227 Jan 8) to run as labor candidate. Upon arrival Darwin he said Austral relations with Asia never worse and "absurd Pacific pact" suggested by Spender deliberately excluded Comwlth countries like India and Pak but included LA countries. Said Colombo plan already being ridiculed. Accused Menzies govt of preventing Brit Cmwlth attempt mediate in Korea. Emb understand External Affairs has no (rpt no) official request or notice re Burton's departure Colombo. In event liberal election victory, he obviously cld not (rpt not) return to fon service position but he might well get important post under labor govt.

JARMAN

GWP:DMP

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10-20-50
FORM DS-324

OUTGOING TELEGRAM DRAFTING OFFICE COPY

Dept. UNCLASSIFIED

76 Jan 24, 1951

AMEMBASSY
WELLINGTON, NEW ZEALAND 209

PLEASE PASS TO DOIDGE FROM DULLES
Re your message sent to me in Tokyo
I made no such statement as is attributed. At press conference in answer to question as to whether treaty arrangement was looked upon as security from communist forces in Asia as well as military danger resulting from resurgence of Japanese militarism I replied extemporaneously:

"The United States considers that the danger to which this arrangement is directed is primarily a danger from the communist areas of the mainland. We do not consider that Japan is a danger or likely to be a danger unless, through some mischance that we don't anticipate, that Japan should fall under communist control. But I do not believe that Japan, as a democratic state and member of the free world, is a future danger. That is the point of view of the United States. It is, of course, natural that a country like Australia which has been physically attacked by Japan in recent years...and I saw still the signs of the devastation wrought at Port Darwin...and which felt that it was near invasion by land forces of Japan, that there should still be a fear in the minds of the people. And I found that that fear existed. But that is a reaction from the past. As far as the future is concerned,

S:JFDulles:kg JFDulles

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the United States considers that the danger dealt with is a danger which stems, not from Japan, but from the communist imperialist areas."

Subsequently I was asked whether the pact would come into play if US troops in Japan were attacked. I replied extemporaneously

"It would mean that if there were an attack upon the US forces that were stationed in Japan, Okinawa or the Philippines, that that would be deemed to be an attack upon the US in the Pacific for purposes of that pact, assuming that is made clear in the final drafting. There is no final agreement, but that is my interpretation of the situation as expressed by the President."

COPY

General Headquarters, Far East Command
Adjutant General's Office
Radio and Cable Center

INCOMING MESSAGE

EHD/rjs

UNCLASSIFIED
ROUTINE

25 Jan 51

FROM: SEC STATE WASH DC

TO : SCAP (USPOLAD) (FOR DULLES) TOKYO JAPAN

INFO: DEPTAR (OOA) WASH DC

NR : 250225 Z (TOKYO 1141 24TH)

Following is text of press statement by New Zealand Fgn Minister on Jan 23:

"From the beginning New Zealand has stressed the need to protect the security of smaller Pacific Nations in the Japanese settlement. Mr. Deidge when he met Mr. Dulles in the US emphasized very strongly that it was fundamental to New Zealands approach that the possibility of a resurgence of Japanese militarism should not be ignored. Since this discussion with Mr Dulles at Lake Success the NZ Govt through it's Amb in Washington has continued to make representations on the form of the settlement and in particular has stressed the need for adequate safeguards. The NZ Govt view is that the peace terms should be decided by those countries which fought against Japan. It has to be admitted however that since the end of the war it has been tacitly accepted that Japan is primarily a US responsibility. It seems only fair in those circumstances that the initiative should to a large extent rest with the US. It would be valuable if Mr. Dulles could visit NZ to continue the discussions and an invitation has been extended to him. His visit if it occurred would take place at the conclusion of the talks now being held in Tokyo."

ACHESON

DISTRIBUTION : MR DULLES

36076

ROUTINE
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TOO : 250225 Z
MCN : AUB 82/25

COPY

TELEGRAM RECEIVED

From: Department

Date: February 8, 1951

No.: 1239

Code: Secret

Received: February 10, 11 AM

Rusk to Dulles.

For your information I had general discussion today with Prime Minister Holland on Pacific Pact and Japan treaty.

I outlined in very tentative and general way relationship of pact to Japan treaty and various alternatives and difficulties in such a pact indicating you will discuss more fully.

I particularly stressed problems of membership, possible desire especially UK and probably France, Netherlands and Portugal for inclusion in any general pact thus imparting colonial power nature as well as raising problem of what type commitment could be made by US which could also be applicable mainland Asia and problem of inclusion states whose primary interests not in Pacific.

I mentioned alternative of unilateral declaration by US, series of bilateral agreements between US and certain Pacific island countries or trilateral arrangement between New Zealand, Australia and US. I mentioned some of difficulties of each alternative pointing up problem of solely bilateral arrangement between Japan and US, and problem of attracting aggression against states excluded.

Holland agreed that UK and probably others would desire join any general pact and expressed understanding difficulties in type proposal agreed upon before your departure. He explained New Zealand commitments to UK for deployment virtually all troop strength in other areas in event general war and desire for public assurance protection in unlikely event attack on New Zealand itself apart from confidential mutual understanding on military commitments. Holland was eagerly receptive to mention of trilateral arrangement between New Zealand, Australia, and US and foresaw no difficulties with UK or Commonwealth in such a plan.

In discussion of treaty I pointed out difficulty and Holland expressed understanding of any US responsibility for enforcing restriction on Japan defensive measures, probability of communist bid for Japanese support in such event, present Japanese disarmament sentiment and difficulty US indefinitely commiting forces to defense Japan inview obvious ability Japan substantially contribute to its own defense.

Holland indicated problem of security and non-restriction Japanese treaty was much more acute in Australia where it was also strong domestic political issue in contrast to New Zealand.

Acheson

RDickson

Mr Dulles

SECRET

September 18, 1950

MEMORANDUM OF CONVERSATION

Participants: Mr. Percy C. Spender, Australian Minister for External Affairs
Mr. Norman J. O. Makin, Australian Ambassador

The Secretary of State
Mr. George W. Perkins, Assistant Secretary

Copies to: The Secretary
USUN - Mr. Dulles
Mr. Hickerson
Mr. Raynor
Mr. Allison
FE - Mr. Rusk
BNA - Mr. Labouisse

Published in Foreign Relations 1950, Vol. VI, pp 222-223

Mr. Spender asked, before taking up the matters he had in mind, whether or not I had anything I wished to discuss with him. I mentioned the Japanese peace treaty and that we were proposing to get on with this now. We hoped to do it through the Far Eastern Commission, but it was not yet determined who would attend the talks. However, we hoped it would be a large group as we did not want to be in a small group with Russia. I mentioned that our principal objective was to turn sovereignty back to Japan so far as possible and at the same time make adequate provisions for security. Mr. Spender said that their chief concern was to prevent the resurgence of militarism in Japan.

Mr. Spender went on to say that he did not feel this was the time to admit Communist China to the UN. I outlined our position to him and told him briefly of Romulo's thought that the Chinese Communist question should not be voted on at the beginning of the Assembly but that it might be referred to the General Committee. Mr. Spender said he would consider this situation and would inform us of their views as soon as possible.

He brought up the question of some kind of an arrangement in the Pacific, pointing out that they were very eager for some form of participation in the decisions affecting their welfare. They did not feel that the consultations which they had now with the UK were sufficient, that they found themselves

faced

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faced with decisions without having taken part in making these decisions.

Mr. Spender also mentioned the possibility of a bilateral declaration by the United States and Australia. I told him of the difficulties in which we found ourselves in making bilateral declarations and referred briefly to the consequences that might arise in other SEA countries should we do this. I suggested that perhaps the best place to discuss these matters was in the treaty negotiations. I told him that, of course, wexwere glad to consider his suggestions and that I felt more talks were needed in connection with the situation in the Middle East. I also outlined to him how I felt the building up the strength in Europe would help in strengthening the whole free world.

Mr. Spender then brought up the question of Korea. He said that they felt that the countries contributing to the UN action in Korea should be formed into a committee to steer the Korean situation.

He also mentioned New Guineas and outlined their position on this matter. I told him that we felt that for the time being it should go through the Round Table procedure, and that if this failed, we could then consider what else should be done.

In closing, I said that I would arrange for him to have a talk with Mr. Dulles.

Declassified
Sec. 1-301(b)(4) E.O.

DIVISION OF
COMMUNICATIONS AND RECORDS
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DEPARTMENT OF STATE

Mr Dulles

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AMEMBASSY,

CANBERRA. 241

PLS deliver following message Secret Dulles to Spender:

QTE I.e contemplate that about Mar 24 we shall hand confidentially to Ambassadors of FEC GOVTS here tentative text possible JAP Peace Treaty accompanied by explanatory memorandum. We hope by then we can be somewhat specific RE possible security arrangement along Canberra lines and are pressing UK pointing out we must proceed with Treaty and that the two matters SHLD go pari passu. However, to meet contingency we shall not by then have favorable reaction from London we have in mind commentary on absence of treaty provisions limiting rearmament along following lines:

I:MMEDIATELY With respect to JAP armament, it is, we judge, the unanimous desire of all nations concerned, including JAP GOVT and people, that JAP SHLD never again rearm so that it CLD menace its neighbors. We do not believe treaty words can be depended upon to assure and perpetuate this result. Written words may give temporary

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comfort

comfort to those who read them but, as all history proves, and as the Versailles Treaty in our time disastrously proved, unequal prohibitions, not shared by other sovereign nations, provide demagogic leaders with slogans for coming to power on platform of defiance.

[illegible] Those who seek reality, rather than illusion, of security against future JAP rearmament will depend upon developing and reenforcing the present conception of the JAP people that there SHLD not be JAP armament save, perhaps, for defense and that defense, to be effective, must be collective. Under guidance UN, or in accordance with collective security arrangement with one or more Allied Powers, JAP's contribution to defense WLD be but part of whole and JAP's part WLD not in itself be so self-sufficient that it CLD menace anyone. JAP has indicated to us its willingness solemnly to affirm its intention of always avoiding any armament which CLD be offensive threat or serve other than to promote peace security in accordance with purposes and principles UN Charter.

[illegible] Concept

[illegible] Concept of collective security, if developed and extended, can also give JAP's neighbors assurance far more effective and much greater deterrent to aggression than any words of prohibition incorporated into JAP Peace Treaty.

[illegible] US will not be satisfied if JAP peace settlement provided form of security without substance. Is always ready, in UN and in association with our friends in Pacific to seek actively and continuously to develop reality of security. END [illegible]

[illegible] Foregoing language designed to avoid embarrassment to your GOVT and will appreciate prompt indication whether we have succeeded. In view number of GOVTS involved, we assume our memorandum and draft text may become public, and indeed we may want eventually to make it public ourselves to avoid unauthorized and unfriendly versions. [illegible]

ACHESON

S:JFDulles:mb 3/16/51 BNA FE

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S - Mr. Dulles

MAR 21 1951

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AIDE MEMOIRE

POST-TPEATY SECURITY AND REARMAMENT OF JAPAN

His Majesty's Government in the United Kingdom are of the opinion that the Peace Treaty with Japan should contain no provisions prohibiting Japanese rearmament or limiting the size or nature of any armed forces which she may eventually raise. They consider, and they believe the Government of the United States to hold the same view, that a restrictive Peace Treaty with Japan is undesirable on general political grounds, particularly because the enforcement of any military restrictions which it might contain would present great, if not insurmountable, difficulties. H.M.G. consider it most important however that some safeguards should be provided outside the Treaty to ensure that Japan does not once more become an aggressor. This question has been examined by the U.K. Chiefs of Staff, a statement of whose views is attached at Annex. These views have been approved by H.M.G., who will be glad to learn in due course whether they are shared by the Government of the United States.

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VIEWS OF THE CHIEFS OF STAFF ON THE REARMAMENT OF JAPAN

General

1. An approach to the problem of Japanese rearmament must be based on the following factors:-

(a) Within the next few years

(i) Japan has not the military means or economic resources to become by herself an aggressor.

(ii) Military arrangements are necessary for internal security and against external threats.

(iii) Military arrangements must be sponsored and economic help must be provided by the Allies to prevent Japan from falling a prey to Communism.

(b) Long Term

(i) Permanent restrictions on rearmament can only be imposed by permanent occupation; this is politically impracticable and militarily unacceptable. Therefore Japan must become an independent sovereign Power.

(ii) The continued alignment of Japan with the West can only be achieved on a voluntary basis, which would mean the establishment of an identity of interest politically, economically and militarily.

Threats to Allied Security.

2. Communist Threat. - The main threats to Allied security in the Far East in the period for which it is possible to plan are from Communism:-

(a) In Peace. - Japan is a major East Asian objective of Russian imperialism. The most effective medium which Russia can use to achieve her aim is that of international Communism, the formidable exponent of which in the Far East is Communist China. There is already a Communist Party of some strength in Japan; an Allied withdrawal would greatly facilitate Communist infiltration into Japanese life.

(b) In War. - In the event of War, it has been estimated that there will be an external threat to Japan from Russia, regardless of any assistance to the latter from Communist China.

We consider that if Japan is to be kept in the Allied camp her internal security must be assured both in peace and war and she must be protected from the external threat in war; there must be no "power vacuum" in Japan after the signing of a Japanese Peace Treaty.

3. Japanese Threat. - Japan is a highly-populated country with considerable insustrial resources and capability. In the long term her desire to establish her industrial prominence and her necessity to expand either territorially or economically must be appreciated. This economic fact will inevitably provide a motive for Japanese military aggression which cannot be disregarded in considering our general policy towards Japan in the post-peace period.

4. In the short term, Japan is not capable of military aggression. Japan has not the indigenous resources necessary to support her own economy, let alone to back an aggressive policy. Her military successes in 1942 depended on the exploitation of raw materials of the Asiatic Mainland and to the considerable stockpiling that she had achieved. She is, in fact, dependent on the Asiatic Mainland and other countries for the supply of the vast majority of her raw materials. Thus, Japan in isolation does not represent a military threat. Should she become a party to any combination of Powers in the Far East, such as is now represented by the Communist bloc, she might develop sufficient strength to threaten Allied territories throughout the Pacific and Far East.

5. In the long term, she will only be capable of conducting an aggressive war if she possesses major naval forces and has secured the necessary economic resources.

Allied Strategy

6. In Peace. - Allied strategy in peace in the Far East, as elsewhere, is to oppose the spread of Communism and in particular to deny the resources of Japan to Communism.

7. In War. - The North Pacific is an American zone of responsibility. Allied strategy in war is to secure Japan and the Ryukyus; to use Okinawa as a base for the strategic air offensive; to maintain sea and air lines of communication; to deny the China Seas to the enemy; to adopt a defensive land strategy with minimum forces so as to deploy maximum forces elsewhere.

8. The requirements of Allied strategy will to a certain extent be met by the United States trusteeship of the Ryukyus and Bonin Islands, but forces will be required in Japan for internal security and defence against external threat. Taking into account all the other commitments of the Allies, it is evident that they cannot provide these forces unaided. For this reason and because, as an independent nation, Japan must take an active part in her own defence, she should provide the necessary forces.

9. Type of Japanese Armed Forces. - In the light of

/the

the above we consider that Japan should provide conventional armed forces with the exception of major naval forces, strategic bombing forces and special weapons which would be provided by the Americans in accordance with Allied strategy and would not be required by Japan. Her forces, which should be of a size suitable to carry out her obligations for internal security and defence, would therefore consist of:-

(a) Naval vessels up to frigates, excluding submarines;
(b) Balanced land forces;
(c) Balanced air forces, except strategic bombing forces.

Instrument for Effecting Japanese Rearmament.

10. The United States had proposed a few months ago a Peace Treaty restoring full Japanese sovereignty. In considering any Peace Treaty, however, account must be taken of the repercussions on the German situation.

11. We consider that there should be a Defence Pact separate from the Peace Treaty, since -

(i) It will thereby be possible to restrict the signatories to friendly Powers;
(ii) The Defence Pact can be voluntarily agreed to by Japan after her sovereignty has been restored by the Peace Treaty;
(iii) It is the only method we can see whereby some safeguards can be provided.

Restrictive Clauses and Controls

12. In pursuance of the need for a liberal treaty it is undesirable, if not impossible, to impose or to suggest that Japan agree to detailed defence restrictions and a concomitant inspectorate. It will therefore not be practicable to include restrictive clauses in the Defence Pact.

We consider that Japan would agree both on military and economic grounds to certain forces and weapons as in paragraph 9 above being provided by the Allies. We consider, disregarding political and economic considerations that the possession and building of merchant fleets and civil air fleets cannot be denied to Japan on purely strategic grounds.

13. No firm military safeguard limiting Japan's capability for aggression in the future is practicable. The only means of achieving any restrictions are:-

(a) Japan's voluntary acceptance of the provision of certain forces and weapons by the Allies for her defence and the restrictive influence of the presence of these forces in Japan. This is in fact our only safeguard.

/(b)

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(b) To a limited extent by the exploitation of Japan's economic dependence on the Allies.

CONCLUSIONS

14. We conclude that:-

(a) Japan in isolation does not represent a military threat.
(b) The threat from Japan lies in the danger of her joining an unfriendly Asiatic or Communist bloc.
(c) Allied Forces should not be withdrawn from Japan until Japan is capable of undertaking her own defence.

15. Safeguards against Japanese Aggression. - No firm military safeguard limiting Japan's capability for aggression in the future is practicable. The only means of achieving any restrictions are:-

(a) Japan's voluntary acceptance of the provision of major naval forces, strategic bombing forces and special weapons by the Allies for her defence and the restrictive influence of those forces in Japan;
(b) To a limited extent by the exploitation of Japan's economic dependence on the Allies.

16. United States Proposals. - The proposals put forward by the United States as a basis for the Peace Treaty are satisfactory from the military point of view, on the assumption that the Treaty will be followed by a bilateral Defence Pact.

17. Type of Japanese Armed Forces. - Japan should be permitted forces of a size suitable to carry out her obligations for internal security and defence. They should consist of:-

(a) Naval vessels up to frigates, excluding submarines;
(b) Balanced land forces;
(c) Balanced air forces, except strategic bombing forces.

INCOMING TELEGRAM **Department of State**

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Control: 8982
Rec'd: February 20, 1951
3:23 p.m.

FROM: Canberra

TO: Secretary of State

NO: 225, February 20.

Following is text communique by representatives US, Australia and New Zealand.

During past four days discussions have taken place in Canberra between Australian Minister External Affairs Mr. P. C. Spender, New Zealand Minister External Affairs Mr. F. W. Doidge and special envoy of President of US Mr. John Foster Dulles on the subject of Japanese peace settlement and general security problems in Pacific. No decisions have been taken, the viewpoint of each government has been expressed with the utmost cordiality and frankness. As result, three representatives have been able make substantial contribution, not only to their general understanding of complicated problems involved, but also to their solution. Reports will now be made to respective governments for their consideration.

Mr. Dulles, who had just visited Japan gave the Ministers External Affairs of Australia and New Zealand a most valuable account of present political, economic and military conditions in Japan and his estimate of probable developments in that country in the future. These matters were discussed at length and Mr. Spender and Mr. Doidge explained to Mr. Dulles the Australian and New Zealand points of view.

Although there were naturally some differences of approach to problems involved, and some difference of emphasis, the three representatives found themselves in agreement that it was essential not leave power vacuum Japan which could easily be filled by unfriendly forces. At the same time, was agreed resurgence of old Japanese militarism would be disaster. Ways and means avoiding such possible developments were considered. There was common agreement Japan should be encouraged join free democracies in giving effect to purposes and principles of Charter of UN, particularly the principle of settling international disputes by peaceful means. No proposals of any character to rearm Japan were discussed or considered.

This conference of representatives of US, New Zealand and Australia has for over four days, therefore, occupied itself with dual problems which are interrelated-terms of any Japanese peace treaty and security in Pacific.

Necessity

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REPRODUCTION OF THIS MESSAGE IS PROHIBITED

Necessity such security arrangements was stressed by Australian and New Zealand representatives, particularly in view importance to their countries of other areas outside pacific and nature of responsibilities which might fall upon them. In relation to such other areas, these points of view received sympathetic consideration of US representative.

Four-day discussions in Canberra represent consultation at its best; they have been most fruitful in developing close contacts between nations represented. It is their view that whenever practicable, contacts of this kind should be maintained and developed so that the freest and frankest exchange of views may take place on important international developments before final decisions are reached by governments.

JARMAN

JB:LQB

TOP SECRET

April 17, 1950

To : S - The Secretary
Thru: S/S
From: S/J - Mr. Butterworth

There is attached an analytical outline of the salient aspects respecting a Japanese peace treaty which was drafted in preparation for your meeting with Secretary Johnson and General Bradley. There are three tabs: (A) an analysis of the legal questions raised by Mr. Voorhees concerning separate peace and security settlements with Japan together with, for possible background use, Mr. Fisher's legal opinion concerning the situation resulting from a treaty of peace without USSR participation prepared last December; (B) suggestive questions to be put to the JCS in order to ascertain their firm views with respect to bases in Japan; (C) an outline of the pertinent provisions of a possible peace treaty, together with a draft of a security agreement.

Attachments.

cc: U - Mr. Webb

S/J:WWButterworth:mas

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No. 1 of 9 copies

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Agreement on Security with respect to Japan

Article 1

The Parties agree to respect the territorial integrity, political independence and security of one another and, as set forth in the Charter of the United Nations, to settle any international disputes between them by peaceful means and refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

Article 2

The Parties other than Japan agree that in case Japan, acting in concert with another power or independently, commits an act of aggression against one or more of the other Parties, each of them will assist in defending the state or states which are the victims of aggression by taking forthwith, individually and in concert with other Parties, such action consistent with the provisions of the Charter of the United Nations as it deems necessary to restore and maintain the security of such state or states.

Article 3

It is mutually agreed by all the Parties that in case an act of aggression is committed against Japan from any source, each of the Parties will assist in defending Japan by taking forthwith, individually and in concert with other Parties, such action consistent with the provisions of the Charter of the United Nations as it deems to be in accordance with its capacity and necessary to restore and maintain the security of Japan.

/The Parties note the provisions in the Japanese Constitution relative to the renunciation of war and the use of armed forces and agree that Japan and one or more of the powers which have heretofore furnished forces under the Supreme Commander for the Allied Powers will conclude an agreement concerning the use of such facilities in Japan as may be required for the purpose of effectively carrying out their responsibilities under this Article./

Article 4

It is agreed by all the Parties that they will, from time to time, review the conditions affecting security with respect to Japan. It is further agreed that the Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of them is threatened by aggression referred to in Article 2 or 3.

Article 5

Article 5

Any act of aggression referred to in Article 2 or 3 and all measures taken as a result thereof shall immediately be reported to the Security Council of the United Nations and any measures of self-defense shall be terminated when the Security Council has taken the measures necessary to restore international peace and security.

Article 6

This agreement shall remain in force for twenty years.

Signature is open to the powers initially negotiating the peace treaty and Japan.

*This provision would be included if bases on Japan are determined to constitute a U.S. military requirement.

TOP SECRET

(30)

July 14, 1950

TO: S - Mr. Dulles
FE - Mr. Rusk
FE - Mr. Hamilton
S - Mr. Howard
NA - Mr. Fearey

FROM: NA - Mr. Allison

There is attached a further draft Chapter on security clauses for a Japanese peace treaty based on the discussion in Mr. Dulles' office on July 11. There is also attached a suggested draft statement to be made public at the time the peace conference with Japan is called. This statement is designed to meet certain of the problems mentioned in Mr. Hamilton's memorandum of July 11 entitled "Korean Lessons for Japanese Security Settlement". It is believed that most of the changes in this draft are self-explanatory. Previous Article IV has been eliminated and the matters previously included therein are in present Article VII. The changes in present Article IV were suggested by Mr. Fearey with a view to affording United States forces the mobility which General MacArthur says they must have. The last clause of Article VII is designed to make possible agreement for Japanese re-armament should that appear desirable at a later time. I am not quite happy with the phrasing of Article VII, but it was the best I could think of for the time being.

Attachments:

1. Draft of Chapter ___: Security Clauses.

2. Draft Statement.

FE:NA:JMAllison/pm

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CHAPTER ___: SECURITY CLAUSES

ARTICLE I

Japan undertakes to apply for admission to the United Nations, which application will be supported by the other Parties.

ARTICLE II

Pending admission to the United Nations, Japan undertakes to act in accordance with the principles of Article 2 of the Charter of the United Nations for the maintenance of international peace and security and the other Parties, having noted the provisions of Japan's Constitution prohibiting the maintenance of land, sea and air forces, undertake to ensure to Japan the corresponding benefits and protections of those principles.

ARTICLE III

Pending Japan's admission to the United Nations and in view of the fact that the Security Council is not yet in a position to exercise its responsibilities under Article 42 of the Charter, in order to carry out the obligations of Article II above and in the interest of maintaining international peace and security, Japan on its part will provide such facilities and the United States will provide such forces on behalf of the other treaty powers as may be determined by the United States in consultation with the Japanese Government.

ARTICLE IV

Japan shall retain its national sovereignty over the facilities furnished in accordance with Article III and the forces furnished by

ARTICLE I

Japan undertakes to apply for admission to the United Nations, which application will be supported by the other Parties.

ARTICLE II

Pending admission to the United Nations, Japan undertakes to act in accordance with the principles of Article 2 of the Charter of the United Nations for the maintenance of international peace and security and the other Parties, having noted the provisions of Japan's Constitution prohibiting the maintenance of land, sea and air forces, undertake to ensure to Japan the corresponding benefits and protections of those principles.

ARTICLE III

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ARTICLE IV

Japan shall retain its national sovereignty over the facilities furnished in accordance with Article III and the forces furnished by the United States shall not have any responsibility or authority to intervene in the internal affairs of Japan. In time of hostilities or imminently threatened hostilities, however, the United States forces shall have authority under the terms of an agreement to be concluded with Japan to enlist the cooperation and assistance of the Japanese Government and people for the defense of Japan.

ARTICLE V

ARTICLE V

During the period this agreement is in effect Japan will not grant military facilities to another Power except as may be concurred in by the United States.

ARTICLE VI

Until another arrangement is made, the United States will bear all expenses incurred in the maintenance of the armed forces referred to in Article III and Japan will bear all expenses incurred in the maintenance of the facilities referred to in Article III. A detailed agreement covering these matters will be negotiated between the United States and Japanese Governments.

ARTICLE VII

The provisions of this Chapter shall remain in effect for an initial period of 10 years or until the Security Council is in a position to exercise its responsibilities under Article 42 of the Charter or until such other provision is made for the defense of Japan as may be agreed to by a majority of the signatories of this treaty and Japan.

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The United States Government is today issuing invitations to the Governments of _____, _____, _____, _____, _____, to meet in _____ on _____ to consider proposals for a Peace Treaty with Japan. In issuing this invitation the United States Government wishes again to make clear certain fundamental principles that have in the past guided our policy toward the Government and people of Japan and to inform the peoples of the world about our present and future policy toward Japan.

Our ultimate objectives in Japan were first stated on August 29, 1945, in the United States Initial Post-Surrender Policy for Japan and in substantially the same form were approved by the Far Eastern Commission on June 19, 1947. As approved by the Far Eastern Commission those objectives are:

> "a. To insure that Japan will not again become a menace to the peace and security of the world.
>
> "b. To bring about the earliest possible establishment of a democratic and peaceful government which will carry out its international responsibilities, respect the rights of other states, and support the objectives of the United Nations. Such government in Japan should be established in accordance with the freely expressed will of the Japanese people."

In the opinion of the Government of the United States the time has come when those objectives can only be assured by recognizing that Japan must be allowed to rejoin the family of nations and assume her share of the rights and duties of a peaceful member of that family. The Government of the United States has noted the progress made by Japan during the years of occupation in the establishment of free institutions, democratic processes both in the fields of government and industry and the recognition by the Japanese Government and people of the sacredness of the fundamental human rights of free speech, free press and free assembly. The fervent desire of the Japanese people to continue in the ways of peace has been made clear in their parliament, in their press and by public statements of their leaders.

The United States

The United States Government wishes at this time to make clear beyond the possibility of misunderstanding that for its part the Government and people of the United States have every intention of doing what lies within their power to make it possible for the people of Japan to continue in their progress toward a free, democratic and peaceful nation.

To this end and to ensure that Japan shall have full opportunity to progress in the ways of peace and cooperation with all and to ensure further that the sacrifices of the people of the United States in the Pacific War shall not have been in vain, the United States Government during the proposed Peace Conference will take the following stands:

1. Japan shall agree to act in accordance with the principles laid down in Article 2 of the United Nations Charter calling upon all nations to settle their international differences by peaceful means and refrain from the threat or use of force against the territorial integrity or political independence of any state.

2. The treaty powers will take note of Japan's disarmed state and the present lack of United Nations forces which could assist Japan, and will undertake to ensure to Japan corresponding benefits under Article 2 of the United Nations Charter.

3. Appropriate security arrangements will be provided for to implement the undertakings mentioned above, including the provision by the United States of such forces as may be deemed necessary to carry out the above undertaking and in the interest of maintaining international peace and security.

4. United States forces shall also continue in occupation of bases in the Ryukyus from which they will be in a position to ensure against the revival of aggressive elements in Japan or be able to come to the defense of Japan should that be necessary. At an appropriate time the United States will make application

to the

to the United Nations for a trusteeship for the Ryukyus with the United States as the administering power.

In taking the above position the United States is motivated by a sincere desire to contribute to the peace of the Pacific area by making possible the growth of a friendly, peaceful Japan. It is in the vital interests of the United States that such a Japan shall be allowed to develop and therefore the United States Government will regard as the manifestation of an unfriendly disposition to itself the effort of any power to interfere directly or indirectly with the political system of Japan as based upon the freely expressed will of the Japanese people, or to violate in any way the territorial integrity of Japan. In case such efforts are made the United States Government will not hesitate to take such action as may be appropriate in Japan or elsewhere to ensure the continued existence of a friendly, peace-loving Japan.

It is the hope of the United States Government that all other like minded Governments will join with the United States in a similar effort to ensure that the peace of the Pacific area be maintained.

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CHAPTER V

International Peace and Security

ARTICLE IV

As a prospective member of the United Nations, Japan accepts in advance the obligation to act in accordance with the principles of Article 2 of the Charter of the United Nations for the maintenance of international peace and security, and the other Parties as members of the United Nations undertake reciprocally to be guided by those same principles in their relations with Japan.

ARTICLE V

In order further to contribute to the establishment and maintenance in the Japan area of conditions conducive to international peace and security in accordance with the principles of the Charter of the United Nations and subject to the transfer of this responsibility to the United Nations under the conditions foreseen in Article IV, Japan requests and the United States agrees that it will provide such armed forces on behalf of the Treaty Powers, and the Japanese Government on its part shall provide such assistance and facilities, including rights of passage, as may be determined by the United States in consultation with the Japanese Government. The Treaty Powers other than the United States that are willing to contribute to such forces for the above purposes may do so by agreement with the United States. The forces furnished by the United States or other Treaty Powers shall not have any responsibility or authority to intervene in the internal affairs of Japan.

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ARTICLE ~~III~~ 17

During the period this chapter is in effect, Japan will not permit another Power to have military facilities in Japan except in accordance with the provisions of this Chapter or Article 43 of the Charter of the United Nations.

ARTICLE ~~IV~~ 18

The provisions of this Chapter shall remain in effect until Japan has been admitted to the United Nations and until the coming into force of such special agreements referred to in Article 43 of the Charter as, in the opinion of those Treaty Powers providing forces under the terms of Article II, will enable the Security Council to exercise its responsibilities under Article 42 of the Charter for the maintenance of international peace and security in the Japan area and to end irresponsible militarism in the world.

(Note: It is contemplated that there shall be concluded, effective with the coming into force of the present Treaty, an agreement between the United States and Japan, to which any other Parties providing forces under Article II may adhere, governing the stationing and employment of the forces provided under Article II, including the manner in which the signatory powers shall share the financial burden of the armed forces and the assistance and facilities provided under that Article.)

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(31)

July 26, 1950

S/S
Mr. McWilliams:

The attached memorandum prepared by the Policy Planning Staff deals with the assumption by Japan of a greater measure of responsibility for its own security, both internal and external.

In as much as the recommendations set forth on page three deal with a tactical planning question, it is suggested that NA be designated as the office responsible for their implementation. S/P is prepared to give any assistance desired.

Paul H. Nitze

Attachment:
S/P Memorandum,
July 26, 1950 (Copy 17)

S/P:PHWatts:ah

cc - Dulles (Copy 4)
Kennan (Copy 19)
Allison (Copy 18)

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S/P Memorandum
July 26, 1950

ASSUMPTION BY JAPAN OF A GREATER MEASURE OF RESPONSIBILITY FOR ITS OWN SECURITY, BOTH INTERNAL AND EXTERNAL

The Policy Planning Staff welcomes and endorses (a) various memoranda prepared by the Office of Northeast Asian Affairs pressing for a greater degree of centralization and a strengthening of the Japanese police, (b) Mr. Kennan's memorandum of July 18, 1950 in the same vein, and (c) the memorandum prepared by Mr. Dulles, dated July 20, 1950, regarding the development of military strength in Japan.

The established position of the Staff since the formulation of PPS 49 (NSC 13 series) has been that the United States should develop internal security forces in Japan adequate to deal effectively with subversive activities. The Staff has felt and continues to be of the opinion that this policy recommendation has not been adequately implemented. It is our conviction, in view of the current crisis in Northeast Asia, that the centralization and augmentation of Japanese internal security forces is of greater importance than ever before.

Heretofore the Staff has not pressed for the immediate re-militarization of Japan.* It has been our opinion that the Japanese people themselves were not prepared to take such a step

* The original position of S/P (PPS 28, March 25, 1948, page 1) was "If Russia has not been extensively weakened and sobered by that time [a peace treaty] or if Japanese society still seems excessively vulnerable in the political sense, we should either postpone the treaty or insist on a limited re-militarization of Japan, preferably under U.S. guidance and supervision."

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a step and that the other members of the FEC would strongly oppose such a proposal. The Staff has, however, envisaged the likelihood that, following a peace settlement and the gradual phasing out of United States occupation troops, Japanese defense forces would be brought into being. We have not felt that this development could provide military strength adequate in itself to defend Japan against direct aggression by a great power. But we did believe that it would be desirable from many points of view that the Japanese themselves should contribute to their own defense, in collaboration with whatever forces we might commit to the protection of the islands.

The Korean conflict and the deep uncertainties regarding the future now make it imperative, in the opinion of the Staff, that we proceed forthwith to create Japanese forces designed to contribute to the defense of the islands. We realize that there are many serious impediments to the implementation of this objective, perhaps the most serious of which is the collective commitments undertaken by ourselves and our allies, predominantly in the FEC, regarding Japanese demilitarization. At the same time we must recognize that all peoples of good will, including the Japanese, are through no fault of their own confronted with a new situation radically different from that envisaged in the Potsdam Proclamation and the Post-Surrender Policy. On this basis we are justified in resorting to extraordinary measures to enable Japan to contribute to its own defense.

Mr. Dulles' memorandum of July 20 suggests the possibility of establishing Japanese military contingents under

Article 43

Article 43 of the United Nations Charter and placing them under the direction of a command chosen by the United Nations Security Council. The Staff feels that this suggestion should be carefully examined and alternative possibilities looked into. By way of illustration, a possible alternative device might be for SCAP to accept in the occupation forces the services of qualified Japanese in much the same manner that McCloy has recommended for Germany. For example, the Government might turn over to SCAP destroyers and smaller patrol craft, over and above those now being activated, to be manned wholly by Japanese crews and to be employed in preventing infiltration of the Japanese coast. To maintain the position that these vessels are controlled and operated by the occupation forces, each ship would be commanded by an American officer and fly the American flag.

RECOMMENDATIONS

The Departments of State and Defense should immediately seek means (a) to strengthen the Japanese internal security forces, and (b) to provide for a contribution by the Japanese themselves to the defense of their own country.

As this is a tactical planning question, NA should be designated as the office responsible for the implementation of these recommendations. S/P is prepared to participate in this study.

If the results of this study reveal that effective measures can now be undertaken, the findings should be submitted to the NSC, with a recommendation that they be issued as national policy directives.

COPY NO. 1

32

Mr. Dulles
Rm 3117

TOP SECRET

December 7, 1950

MEMORANDUM

TO: S - Mr. Dulles
FE - Mr. Rusk
FEC- Mr. Hamilton
NA - Mr. Johnson
NA - Mr. Fearey

FROM: NA - Mr. Allison

SUBJECT: Japanese Peace Treaty

There is attached a rather hastily dictated memorandum setting forth some of the more urgent matters I believe we should consider in connection with our next step toward a Japanese peace settlement. The attached memorandum is not in any sense a complete statement of all factors to be taken into account, and as I read it over I can see obvious omissions. However, I am forwarding it in the hope that it will be suggestive and that it may elicit comments which will help us to make progress.

ATTACHMENT:

Memo on Japanese Peace Treaty.

FE:NA:JMAllison/pm

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COPY NO. 1

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December 7, 1950

JAPANESE PEACE TREATY

The following factors must be considered in making a decision as to whether or not to proceed in some manner with bringing about an end of the state of war with Japan:

I Assumptions

A. It is vital to the security interest of the United States to keep Japan out of the Communist camp and on the side of the United States and the West.

B. This can only be done by convincing the Japanese that it is in their interest to be on our side and that we have the ability and willingness to protect them from the obvious risks they take in aligning themselves with the United States.

C. United States military commitments in Asia should, in so far as possible, be limited to air and naval power plus supply of equipment and munitions.

II To Be Determined

A. Is the United States, with or without allies, going to maintain its stand that aggression cannot be allowed to succeed and therefore:

1. Formosa will not be allowed to fall to Chinese Communists?

2. Chinese Communists will not be seated in the UN?

3. We will not leave Korea, unless driven out militarily, before UN objectives are accomplished?

B. If answers to above questions are in the affirmative, can and will the United States take the necessary steps to:

1. Increase air and naval power in the Far East sufficient to assure keeping Formosa out of Communist hands?

2. Proceed to go on a war footing domestically in order to regain in as short a time as possible the relative power position we had in 1945?

3. Create some sort of mutual assistance pact among the Pacific nations (Australia, New Zealand, Philippines and U.S.) which Japan could join at a suitable time and which would have the dual purpose of defending Japan from Communist aggression and assuring our friends that Japan would be on their side and not a menace to them?

III Action

III Action To Be Taken

A. Policy Decisions to be Made. Consideration must be given to the effect of positive action restoring Japan to the family of nations on prior United States commitments under such instruments as the Potsdam Declaration and the Basic Post-Surrender Policy which was approved by the Far Eastern Commission in terms which imply that it was more in the nature of a governmental agreement than an ordinary FEC policy decision. Determination of how far we can go and the direction to go must be made at the earliest possible moment so that we can proceed with the steps outlined below.

B. Congressional Consultations. These should be undertaken at once with a view to obtaining Congressional approval for whatever action is necessary to enable the United States to take a stand in Asia and with Japan which will assure Japan's being on our side. Such action might include going ahead with a peace treaty in the conventional sense or having the Congress by joint resolution declare the ending of the state of war with Japan. The latter possibility under present conditions seems to have much to recommend it and should be thoroughly explored.

C. FEC Consultations. Consultations should be held at an early date with friendly members of the FEC, perhaps in a body, to tell them of our thinking and to endeavor to gain at a minimum their passive acquiescence and at a maximum their active support.

D. Consultations with Japanese. At an early date high level representatives of the United States Government should proceed to Japan for consultations with Japanese leaders to determine how far they are prepared to go in cooperating with the United States.

E. Relaxation of SCAP Controls. Concurrently with taking the above steps, the United States should take steps to reduce the impact of SCAP GHQ on Japanese political, economic and social life.

F. Increase of Internal Security in Japan. Concurrently with the above two steps, the United States should take active steps to increase the size and power of Japanese Police and Coast Guard.

G. Increasing Japan's Industrial Potential to Fight Aggression. All necessary steps should be taken to make it possible for Japan's industrial power to be used by the United States and its allies, as well as Japan, for the building up of the forces necessary to resist Communism. This will require consideration of FEC restrictions on production for military purposes.

IV Staff

IV Staff Necessary

In order to accomplish the above, there should be set up a small, high-level staff under Mr. Dulles which will be given authority from the White House to make all necessary studies and submit recommendations for final action. During the process of formulating final recommendations, this staff should consult all offices, departments and agencies concerned but should not be required to obtain clearances at each step. Within the broad framework of the Acheson-Johnson Memorandum to the President of September 7, 1950, and NSC 13 the staff should be given complete freedom of action. There should be a representative of the Defense Department on the staff.

FE:NA:JMAllison/pm

TOP SECRET

2 copies
+ Memo attached

January 4, 1951

Dear Mr. Secretary:

With Mr. Rusk and Mr. Allison, I conferred yesterday with the Joint Chiefs of Staff with reference to proceeding to a Japanese peace settlement.

You will recall that in the joint memorandum of yourself and the Secretary of Defense, dated September 7, 1950, which was approved by the President, it was stipulated, at the request of the Secretary of Defense, that there should be no definitive Japanese peace settlement "until after favorable resolution of the present United States military situation in Korea".

Ever since the Chinese Communist intervention in Korea it has seemed unlikely that there would be any such "favorable resolution" and, in consequence, active negotiations have necessarily been in suspense for about six weeks pending modification of the Presidential directive of September 7th, such as you suggested in your letter of December 15, 1950 to Secretary Marshall.

This delay has worked against the long-range interests of the United States in relation to Japan in the sense that:

1. The Japanese people and their leaders are coming increasingly to feel the danger of throwing in their lot with us in view of the fact that Communist power seems to be closing in upon them, and also upon their normal sources of food supply from French Indo-China, Siam and Burma. Our information points to increasing doubt on the part of the Japanese leaders as to the wisdom of any definitive commital to our cause at the present time unless perhaps under conditions as to military and economic security which it would not be easy for us to fulfill.

The Honorable
The Secretary of State.

2. The United

TOP SECRET

2. The United Kingdom is seeking to gain the initiative and is itself drafting a Japanese peace treaty. This, it seems, is being now considered in London by the Commonwealth Prime Ministers, who are also reported to be considering a Pacific Pact. There is, thus, a likelihood that we may soon be confronted with a British Commonwealth program dealing with Japan and related matters. The British Commonwealth members constitute six of the thirteen members of the Far Eastern Commission which, in turn, is made up of the nations which we consider to be those primarily concerned with a Japanese settlement. We are not familiar with the precise terms of any British proposals, but we do know that the British policy in relation to the Far East is different in many essential respects from our own and it can be assumed that the British Commonwealth proposals will not adequately take account of what the United States believes to be its vital interests in this area.

In sum, the delay in our pushing the Japanese peace settlement has not worked to our advantage and the conditions which were set out in the memorandum of September 7, 1950 as "vital" and which any treaty "must" take account of, now become matters to be negotiated for and obtained as fully as possible, rather than conditions which in September it seemed that we could obtain unconditionally merely by stipulating them.

Our talk with the Joint Chiefs of Staff indicated that they may desire further delay principally for two reasons:

1. To preserve our existing authority in Japan until after the Korean affair is liquidated; and

2. To reinforce Japan with additional United States land forces lest the Soviet might move its own armed forces into Japan either as an "occupying" power under the Surrender Terms or on the theory that the Sino-Soviet Treaty of February, 1950 requires this because of the remilitarization of Japan.

In my opinion neither of these reasons is valid.

As to the first, no possible procedure could change the present legal status in Japan for several months

and any change

and any change would, in the last analysis, be dependent upon action by the President and the Congress or the Senate which could always be deferred if the situation were then such that delay seemed in the best interests of the United States.

As to the second reason, it is, of course, possible that the Soviet Union plans, under one pretext or another, to invade Japan and anything the United States can do consistently with its other responsibilities to defend against this is, no doubt, desirable. Nothing in the pending negotiations precludes this. It must, however, be assumed that if the Soviet have any early plans for sending armed forces to Japan, these plans have already been made. They will not be improvised merely because a United States Mission now goes to Japan, as has been long contemplated, in order to push forward a Japanese peace settlement.

The Soviet Union already knows that our intentions are (a) to retain American garrisons in Japan and (b) to permit if not encourage Japanese rearmament. The conversations and exchange of notes with the Soviet Union make both of these points perfectly clear and Soviet plans doubtless are already made accordingly. If they have plans to invade, it is possible that these plans might coincide with the prospective mission to Japan, and this would be true whether the Mission goes now or after one or two months. The presence of the Mission would not, however, be the cause of an invasion as a major move of this sort by the Soviet Union, which would risk general war, would be taken by the Politburo with careful preparation many months in advance. The North Korean invasion seems now to have been decided upon at least six months before it occurred. So any early action in relation to Japan would certainly have been decided upon by now and nothing we do within the next few weeks would precipitate or prevent its being carried out.

In my opinion, further delay will substantially increase the risk that it will be impossible to obtain an unreserved Japanese commitment, in fact as well as form, to our cause on conditions which we would regard as acceptable.

Already the delay

Already the delay is causing disquiet in Japan and a feeling that it may well be that, as Secretary Royal once told the Japanese, we have no firm resolve to try to hold the island chain of which Japan forms part. Of course, no one can say in terms of days, when delay will be fatal to our hopes as regards Japan, but I think we are already in the danger area.

Sincerely yours,

John Foster Dulles

S:JFDulles:dad

TOP SECRET

Copy

January 4, 1951

Dear Mr. Secretary:

With Mr. Rusk and Mr. Allison, I conferred yesterday with the Joint Chiefs of Staff with reference to proceeding to a Japanese peace settlement.

You will recall that in the joint memorandum of yourself and the Secretary of Defense, dated September 7, 1950, which was approved by the President, it was stipulated, at the request of the Secretary of Defense, that there should be no definitive Japanese peace settlement until after favorable resolution of the present United States military situation in Korea".

Ever since the Chinese Communist intervention in Korea it has seemed unlikely that there would be any such "favorable resolution" and, in consequence, active negotiations have necessarily been in suspense for about six weeks pending notification of the Presidential directive of September 7th, such as you suggested in your letter of December 15, 1950 to Secretary Marshall.

This delay has worked against the long-range interests of the United States in relation to Japan in the sense that:

1. The Japanese people and their leaders are coming increasingly to feel the danger of throwing in their lot with us in view of the fact that Communist power seems to be closing in upon them, and also upon their normal sources of food supply from French Indochina, Siam and Burma. Our intervention points to increasing doubt on the part of the Japanese leaders as to the wisdom of any definitive commital to our cause at the present time unless perhaps under conditions as to military and economic security which it would not be easy for us to fulfill.

The Honorable
The Secretary of State.

2. The United

TOP SECRET

2. The United Kingdom is seeking to gain the initiative and is itself drafting a Japanese peace treaty. This, it seems, is being now considered in London by the Commonwealth Prime Ministers, who are also reported to be considering a Pacific Pact. There is, thus, a likelihood that we may soon be confronted with a British Commonwealth program dealing with Japan and related matters. The British Commonwealth members constitute six of the thirteen members of the Far Eastern Commission which, in turn, is made up of the nations which we consider to be those primarily concerned with a Japanese settlement. We are not familiar with the precise terms of any British proposals, but we do know that the British policy in relation to the Far East is different in many essential respects from our own and it can be assumed that the British Commonwealth proposals will not adequately take account of what the United States believes to be its vital interests in this area.

In sum, the delay in our pushing the Japanese peace settlement has not worked to our advantage and the conditions which were set out in the memorandum of September 7, 1950 as "ideal" and which any treaty "must" take account of, now become matters to be negotiated for and obtained as fully as possible, rather than conditions which in September it seemed that we could obtain unconditionally merely by stipulating them.

Our talk with the Joint Chiefs of Staff indicated that they may desire further delay principally for two reasons:

1. To preserve our existing authority in Japan until after the Korean affair is liquidated; and

2. To reinforce Japan with additional United States land forces lest the Soviet might move its own armed forces into Japan either as an "occupying" power under the surrender terms or on the theory that the Sino-Soviet Treaty of February, 1950 requires this because of the remilitarization of Japan.

In my opinion neither of these rea[illegible]s is valid.

As to the first, no possible procedure could change the present legal status in Japan for several months

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and any change would, in the last analysis, be dependent upon action by the President and the Congress or the Senate which could always be deferred if the situation were then such that delay seemed in the best interests of the United States.

As to the second reason, it is, of course, possible that the Soviet Union plans, under the pretext or caption, to invade Japan but, the United States can, in substantially that same responsibilities to defend against this is, no doubt, doubtful. Nothing in the pending negotiations precludes this. It must, however, be assumed that if the Soviets have any early plans for sending armed forces to Japan, these plans have already been made. They will not be improvised merely because a United States Mission may come to Japan, or has come, but contemplated, in order to halt further a Japanese peace settlement.

The Soviet Union already knows that our intentions are (a) to retain American garrisons in Japan and (b) to permit if not encourage Japanese rearmament. The conversations and exchange of notes with the Soviet Union make both of these points perfectly clear and Soviet plans doubtless are already made accordingly. If they have plans to invade, it is possible that those plans might coincide with the prospective mission to Japan, and this would be true whether the Mission goes now or after one or two months. The presence of the Mission would not, however, be the cause of an invasion as a major move of this sort by the Soviet Union, which would risk general war, would be taken by the Politburo with careful preparation many months in advance. The North Korean invasion seems now to have been decided upon at least six months before it occurred. So any early action in relation to Japan would certainly have been decided upon by now and nothing we do within the next few weeks would precipitate or prevent its being carried out.

In my opinion, further delay will substantially increase the risk that it will be impossible to obtain an unreserved Japanese approval, in fact as well as form, to any course of conduct which we would regard as acceptable.

Already the delay

Already the delay is causing disquiet in Japan and a feeling that it may well be that, as Secretary Hoyal once told the Japanese, we have no firm resolve to try to hold the island chain of which Japan forms part. Of course, no one can say in terms of days, when delay will be fatal to our hopes as regards Japan, but I think we are already in the danger area.

Sincerely yours,

John Foster Dulles

S:JFDulles:dad

TOP SECRET

Copy

January 6, 1951

Dear Mr. Secretary:

With Mr. Dusk and Mr. Allison, I conferred yesterday with the Joint Chiefs of Staff with reference to proceeding to a Japanese peace settlement.

You will recall that in the joint memoranda of yourself and the Secretary of Defense, dated September 7, 1950, which was approved by the President, it was stipulated, at the request of the Secretary of Defense, that there should be no definitive Japanese peace settlement "until after favorable resolution of the present United States military situation in Korea".

Ever since the Chinese Communist intervention in Korea it was deemed unlikely that there would be any such favorable resolution and, in consequence, active negotiations have necessarily been in suspense for about six weeks pending ascertainment of the Presidential directive of September 7th, such as you suggested in your letter of December 22, 1950 to Secretary Marshall.

This delay has served against the best interests of the United States as related to Japan in the sense that:

1. The Japanese people and their leaders are coming increasingly to feel the danger of Communism to their lot with us in view of the fact that Communist power seems to be expanding on every hand, and also upon their normal contacts of food supply from Formosa, Free China, Siam and Burma. The information points to increasing unrest on the part of the Japanese leaders as to the status of any definitive commitment to our cause at the present time which would ensure them certainty as to military and economic security which it would not be easy for us to fulfill.

The Honorable
The Secretary of State.

2. The United

TOP SECRET

2. The United Kingdom is seeking to gain the initiative and to limit India, a Japanese peace treaty. This, it seems, is being now considered in London by the Commonwealth Prime Ministers, who are also reported to be considering a Pacific Pact. There is, thus, a likelihood that we may soon be confronted with a British Commonwealth program dealing with Japan and related matters. The British Commonwealth nations constitute six of the thirteen members of the Far Eastern Commission which, in turn, is made up of the nations which we consider to be those primarily concerned with a Japanese settlement. We are not dealing with the precise terms of any British proposals, but we do know that the British policy in relation to the Far East is different in many essential respects from our own and it may be assumed that the British Commonwealth proposals will not adequately take account of what the United States believes to be its vital interests in this area.

In sum, the delay in our pushing the Japanese peace settlement has not resulted to our advantage and the conditions which were set out in the memoranda of September 7, 1949 on "Tribal" and which may hereby have reason of, were meant to be negotiated for and obtained as fully as possible, rather than conditions which it is believed it would obtain unconditionally merely by stipulating them.

Our talks with the Joint Chiefs of Staff indicate that they may desire further delay principally for two reasons:

1. To preserve our military authority in Japan until after the Korean affair is liquidated; and

2. To reinforce Japan with additional United States land forces lest the Soviet might move its own armed forces into Japan either as an "occupying" power under the Moscow Treaty or on the theory that the Sino-Soviet Treaty of February, 1950 requires this because of the rearmament of Japan.

In my opinion neither of these fears is valid.

As to the first, no possible procedure could change the present legal status in Japan for several months

and any change

any change would, at the time arrive, be dependent upon action by the Executive and the Congress as the Senate could always be relied on to take action with due care and caution as the best interests of the United States.

As to the second point, it may, at first, seem that the power that the word "war" carries with it, would be sufficient to prevent any President from taking action, but, in fact, under the Constitution as it now stands, the President has the power to defend against this by, in fact, declaring war. Nothing in the Constitution prevents the President from, in fact, so declaring war and in the event that any such thing does occur, Congress would have already been asked to act. They will not be supported merely because a cabinet officer happens not to agree, if the two have disagreed, as would be just because a Supreme Court Justice disagrees.

The third point is already one of which there are (a) to obtain information pertaining to Japan and (b) to provide it was necessary, Japanese nationals in the Continental United States at least, the Navy's plans into one of those which [illegible] Japanese [illegible] are very much concerned. We may have to have, as in Canada, some plan to be followed with the cooperation of the Canadian Government, but this would be [illegible] the Japanese [illegible] Japan, [illegible] by the Navy's [illegible] with certain precautions may [illegible] to have been [illegible] but we [illegible] the Navy. [illegible] certainly have [illegible] to be [illegible] the Navy [illegible] to [illegible] the Navy could [illegible] to [illegible] the Navy could [illegible] to [illegible] the Navy could

-2-

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Sincerely yours,

John Foster Dulles

JFDulles:mvd

S/m. Allison

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IA-761

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FE - Mr. Rusk

NA - Mr. Johnson

May 30, 1951

Fundamental Policy Decisions Regarding Japan.

The question of rearming Japan prior to a treaty of peace coming into effect, and our attitude toward observance of the FEC policy decisions until the FEC is superseded by a treaty of peace, continue to be presented to us in a fragmentary manner.

We first had the question of heavy equipment for the National Police Reserve, in which the Department of Defense finally concurred with and the President approved our proposal that the equipment be shipped but the decision deferred as to the timing of turning it over to the Japanese. We will probably be faced shortly with the question as to whether the material should be turned over to the Japanese prior to a treaty coming into effect.

Next there was the question of the production and export from Japan of arms and munitions for use in the MDAP projects elsewhere in Asia as well as by our forces outside of Japan and Korea. On this we heavily stretched the FEC decisions to concur in the production and export of non-armament military goods and armament for use in Korea.

We now have under consideration the questions of armament for the Maritime Safety Patrol or, alternatively, the establishment of a "SCAP Coast Guard" manned by Japanese, the modification of the purge to obtain former Japanese army officers for the National Police Reserve, and the manufacture of military-type radar. I have reason to believe that we might shortly be faced with the question of a Japanese air force.

In each case the Department is being pressed for urgent decisions upon the basis of the Soviet threat to the security of Japan.

All of these problems relate to several fundamental questions upon which U. S. Government decisions should be reached after full study and consideration at the highest levels.

Among these questions are:

1. Is the Soviet threat to the security of Japan of such a clear, immutable character as to override all other considerations?

2. Specifically, is the Soviet threat to Japan so immediate as to require, in effect, denouncing all or part of the FEC decisions?

3. What would be the consequences to the Japanese peace treaty negotiations and the general U.S. position in the Far East of, in effect, unilaterally denouncing the FEC decisions, and are such consequences acceptable?

4. If the decision is to denounce all or part of the FEC decisions, how may this be accomplished with the least harmful effects?

5. If the Soviet threat to Japan is clear and immediate, will the defense of Japan be facilitated or hampered by: a) continued non-treaty status; b) bringing into effect a treaty of peace?

6. What should be the long-range U.S. policy toward Japanese rearmament - specifically:

   a) What should be the size and composition of Japanese ground forces?

   b) What should be the size and composition of Japanese naval and coast defense forces, if any?

   c) What should be the size and composition of Japanese air forces, if any?

   d) What should be the size and composition of Japanese specialized facilities for production of arms and implements of war?

(Obviously, the decisions with regard to these questions will not be solely one for the U.S. in the post-treaty period, and exact answers are not possible. However, U.S. policies in this regard should be developed as a guide to the policy decisions of the concerned agencies on the detailed questions that have been and will continue to arise in this regard.)

In addition, our decisions on post-treaty financial relations with Japan involve policy decisions on the degree to and manner by which the U.S. should be prepared to compensate Japan for the loss of her natural markets and sources of raw materials in the Communist dominated areas of Asia.

I believe that consideration of most of these questions can properly be undertaken within the context of an annex to NSC 48/5.

If you approve, I plan to discuss with Mr. Emmerson the development of such an annex in a form that will require consideration and decision on these questions.

cc: FE - Mr. Emmerson
S - Mr. Allison

FE:NA:UAJohnson:lk
5/30/51

TOP SECRET

Mr. Dulles

COPY 1 OF 20 COPIES

34 Defense

TOP SECRET

DEPARTMENT OF THE ARMY
Office of the Secretary of the Army
Washington 25, D. C.

30 October 1950

Published in Foreign Relations, U.S.

Honorable Dean Rusk

Assistant Secretary of State

Dear Dean:

I attach hereto a draft of the bilateral U. S. - Japanese treaty prepared by a working group in the Department of Defense and revised to meet suggestions of Mr. Dulles and Mr. Allison.

This draft has been forwarded to General MacArthur for his comments. It does not yet have the approval of the Department of Defense.

I would appreciate any comments you care to make at this time as to matters of substance. We will, of course, forward a final revision for the approval of the Department of State once we have agreement with the Department of Defense. At that time we will also request that the Department of State have our proposed draft phrased appropriately.

Sincerely

s/ Carter
CARTER B. MAGRUDER
Major General, GSC
Special Assistant
for Occupied Areas

Incl
Draft bilateral
treaty as stated
dtd 27 Oct 50

TOP SECRET

TOP SECRET

Copy No. 1

27 October 1950

DRAFT OF
POINTS TO BE INCLUDED IN
THE FORMULATION OF THE TERMS
OF THE U. S. — JAPANESE BILATERAL AGREEMENT
ON SECURITY

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P R E A M B L E

Recalling that Japan and the United States have this date entered into a Treaty of Peace expressive of the conviction that security against aggression in the Japan area and elsewhere in Asia is a prerequisite to the maintenance of individual liberty, free institutions, stable economic relationships, and is otherwise essential to an achievement of the objectives of the Charter of the United Nations;

Considering that both governments have agreed in the Treaty of Peace that security forces of the United States shall remain in the Japan area for this purpose until Japan possesses the means to discharge this responsibility alone and in accordance with the principles of the Charter of the United Nations, or until a superseding security arrangement is established with the consent of the United States;

And having in mind that the security forces of the United States shall have as their purpose the defense of Japan against aggression, and the further purpose of assisting in the maintenance of internal law and order upon the invitation of the Japanese government,

The Japanese government and the United States government agree as follows:

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TOP SECRET

Copy No. 1

27 October 1950

DRAFT OF
POINTS TO BE INCLUDED IN
THE FORMULATION OF THE TERMS
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PREAMBLE

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And having in mind that the security forces of the United States shall have as their purpose the defense of Japan against aggression, and the further purpose of assisting in the maintenance of internal law and order upon the invitation of the Japanese government,

The Japanese government and the United States government agree as follows:

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1. Effective Date and Period of Application

The provisions of this agreement will become effective simultaneously with the coming into force of the Treaty of Peace, and will remain effective until the withdrawal from Japan of United States security forces or until the adoption of a superseding security arrangement acceptable to the United States government with respect to the Japan area.

2. Right of Maneuver

The principle that the entire land mass of the Japan area will be regarded as a potential area for the defensive manouver of military forces is accepted.

The United States military commander, acting in the normal chain of command within the United States government, shall have the unrestricted authority to make such strategic dispositions of military forces, after notice to the Japanese government, as may, in the light of existing external threats to the security of Japan, be deemed necessary. In the event of hostilities or imminently threatened hostilities, the United States military commander shall have the right to make such tactical dispositions as the military situation requires. Except in time of hostilities or imminently threatened hostilities,

no major change of a permanent nature in the disposition of security forces shall be made by the United States commander in the absence of consultation between representatives of the United States and Japanese governments.1/

In locating the aforesaid areas for strategic and tactical disposition, the fullest consideration consistent with military necessity shall be given to the welfare, health and economic needs of the native peoples of Japan.2

In the absence of hostilities or imminently threatened hostilities, the United States, after notice to the Japanese government, shall have the right to use land and coastal sea areas of appropriate size and location for military exercises, for additional staging areas, bombing and gunnery ranges, and for such intermediate airfields as may be required for safe and efficient air operations.3 Operations in such areas shall be carried on with due regard and safeguards for the public safety.4

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1. Paraphrase of the views of General MacArthur as set forth in memorandum of 14 June 1950.

2. See Art. V of U.S.-Denmark Agreement, April 9, 1941.

3. Agreement between the U.S. and Philippines Concerning Military Bases, March 26, 1947.

4. Ibid.

3. Japanese Public and Private Property Utilized by Security Forces for Garrison Purposes

Security forces shall customarily be garrisoned at installations presently utilized by allied occupation forces, and all facilities or areas currently required by them shall remain under the exclusive control of the security forces.

Further assistance, including the use of additional land areas, installations or other facilities, as may be required from time to time by the security forces for garrison purposes, shall promptly be provided by the Japanese government upon the certification of, and following consultations with, a representative of the United States government; provided, however, that nothing herein shall be construed as requiring the United States to certify its requirements to, or consult with, the Japanese government or officials thereof in connection with the utilization of land areas, installations or other facilities in the event of hostilities or imminently threatened hostilities; and provided further that, in the event of such hostilities or imminently threatened hostilities, the Japanese government shall promptly provide, at the request of the United States military commander, such installations, facilities, materials, equipment, supplies and other assistance as he may deem necessary at the time and under the circumstances.

Japanese real and personal property utilized from time to time by security forces shall, when no longer required, be returned to the Japanese government in good condition, subject to normal depreciation or ordinary wear and tear. In cases of damage to such property during the period of use, except for losses arising directly from hostilities, compensation shall be made following agreement between the United States government and the Japanese government.

4. Further Description of Rights[5]

The United States shall have such rights, powers and authority within installations or defense areas as are necessary for the establishment, use, operation and defense thereof, or appropriate for the control thereof, and all the rights, power and authority within the limits of territorial waters and air space adjacent to, or in the vicinity of, installations or defense areas which are necessary to provide access to them, or appropriate for their control.

Such rights, power and authority shall include, inter alia, the right, power and authority:

(a) to construct (including dredging and filling), operate

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5 Agreement between the U.S. and Philippines Concerning Military Bases, March 26, 1947.

maintain, utilize, occupy, garrison and control the installations or areas;

(b) to improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to such installations or defense areas;

(c) to control (including the right to prohibit) insofar as may be required for the efficient operation and safety of installations or defense areas, and within the limits of military necessity, anchorages, moorings, landings, takeoffs, movements and operation of ships and water-borne craft, aircraft and other vehicles on water, in the air or on land comprising, or in the vicinity of, the installations or defense areas;

(d) to acquire such rights of way, and to construct thereon, as may be required for military purposes, wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads;

(e) to construct, install, maintain, and employ in any installation or defense area any type of facilities, weapons, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including

meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices, of any desired power, type of emission and frequency.

In the exercise of the above-mentioned rights, power and authority, the United States agrees that the powers granted to it will not be used unreasonably or in such a manner as to interfere with the necessary rights of navigation, aviation, communication, or land travel within the territories of Japan. In the practical application outside installations and defense areas of such rights, power and authority, there shall be, as the occasion requires, consultation between the two governments.

5. Shipping and Navigation[6]

United States public vessels operated by or for the Army or Navy Departments, the Coast Guard or the Coast and Geodetic Survey, and the military forces of the United States, military and naval aircraft and government-owned vehicles, including armor, shall be accorded free access to, and movement between, ports and United States installations and defense areas throughout Japan, including territorial waters, by land, air and sea. This right shall include freedom from compulsory pilotage and all toll charges. If, however, a pilot is taken, pilotage shall be paid for at appropriate rates. In connection with the entrance into Japanese ports by United States public vessels, appropriate notification under normal conditions shall be made to the Japanese authorities.

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6 Agreement between the U.S. and Philippines Concerning Military Bases, March 26, 1947.

Lights and other aids to navigation of vessels and aircraft placed or established in the installations and defense areas and territorial waters adjacent thereto, or in the vicinity, shall conform to the system in use in Japan. The position, characteristics and any alterations in the lights or other aids shall be communicated to the appropriate authorities of Japan.

6. Jurisdiction over Defense Areas, and Installations or Facilities

The United States shall have exclusive jurisdiction over all installations and defense areas in Japan utilized by security forces, and over the military and civilian personnel of the government of the United States and their families within the said installations or defense areas, as well as over all other persons within such areas except Japanese citizens. The government of the United States shall retain the right, however, to turn over to the Japanese authorities for trial and punishment any person, other than a citizen of the United States, committing an offense in such areas. The Japanese authorities shall have the privilege of turning over to the United States authorities for trial and punishment any of the United States military or civilian personnel and their families who may commit offenses outside of such areas. The Japanese authorities and the United States authorities shall undertake adequate measures to insure the prosecution and punishment of all such offenders, it being understood that relevant evidence shall be furnished reciprocally to the two authorities.7/

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7 Patterned after the agreement between the United States and Liberia, signed at Monrovia, March 31, 1942.

7. Exemptions in Favor of Security Personnel and Incoming Goods

All materials, supplies and equipment for the security forces, and for the personal needs of military and civilian personnel and their families, shall be permitted entry into Japan free of customs duties, excise taxes, or any other charges, and the said personnel and their families shall also be exempt from Japanese regulations pertaining to passports, visas and residence permits.[8]

No member of the United States armed forces serving in Japan in connection with this agreement and residing in Japan by reason only of such service, or his family, shall be liable to pay an income tax in Japan, except in respect of income derived from Japanese sources.

No national of the United States serving in or employed in Japan in connection with the administration, maintenance or operation of the United States security forces in Japan and residing in Japan by reason only of such employment, or his family, shall be liable to pay an income tax in Japan, except in respect of income derived from Japanese sources.

8. Postal Facilities

The United States shall have the right to establish United States Post Offices within the facilities, installations or defense areas utilized by the security forces for the exclusive use

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8 Ibid

use of the latter and for civilian personnel who are nationals of the United States and who are employed in connection with the administration, maintenance or operation of the security forces. This is to include the right by the United States to regulate and control all communications between such facilities, installations or defense areas and other United States Post Offices and agencies.

9. Sales and Services

The United States shall have the right to establish in installations or areas utilized by the security forces, free of all licenses, fees, and sales, excise, impost or other taxes, government agencies, including concessions, such as sales commissaries and post exchanges, messes and social clubs, for the exclusive use of the security forces and authorized civilian personnel and their families. The merchandise or services sold or dispensed by such agencies shall be free of all taxes, duties and inspection by the Japanese authorities.

10. United States Reserve Organizations

The United States shall have the right to enroll and train all eligible United States citizens, residing in Japan, in the reserve organization of the armed forces of the United States, which includes the Officers' Reserve Corps and the Enlisted Reserve Corps, except that the prior consent of the Japanese government shall be obtained in the case of persons employed by the Japanese government.

11. Relationship of Security Forces to the Japanese Government

The security forces shall neither have the responsibility nor the authority to intervene in the ordinary internal affairs of Japan.

In the event of civil unrest or riot, the Japanese government shall have the privilege of inviting United States forces to take whatever measures are necessary under the circumstances to restore law and order.

12.

12. Limitations on Security Forces Garrisoned in Japan

(There will be no limitation as to the type, size or composition of United States security forces garrisoned in Japan.)

13. Withdrawal of Security Forces from Japan

(The date on which such security forces will depart from Japan will not be stipulated.)

14. Japanese Armed Forces

Following ratification of the Treaty of Peace, such prohibitions against the rearmament of Japan as were imposed during the period of the occupation shall cease to be operative insofar as they had previously constituted obligations to the United States under the Terms of Surrender.

It is acknowledged, in this connection, that the provisional garrisoning in Japan of security forces of the United States has for its purpose the protection and maintenance of international peace and security in a manner consistent with the principles and objectives of the Charter of the United Nations, and that, whenever it appears to both nations that the Japanese government is adequately prepared to discharge this responsibility alone, and in accordance with its obligations under the Charter of the United Nations, the United States shall withdraw the protection afforded by its security forces.

No land, sea, or air forces will be established by the Japanese government during the period that this agreement is in effect, except with the advice and consent of the United States government with respect to the strength, type, composition, armament, and other organizational features of such forces, any schedule for their creation being in all respects

respects subject to the determination of the United States government in consultation with the Japanese Government.

In the event of hostilities or imminently threatened hostilities, as determined by the United States, all armed forces in Japan, including the Japanese Coastal Patrol, shall be placed under the unified command of a Supreme Commander designated by the United States government.

Japanese armed forces, if or when established, or any branch, arm, or contingent thereof, including the Japanese Coastal Patrol, shall not engage in any form of combat operations outside the territories of Japan except when and as directed by the aforesaid Supreme Commander.

15. Relationships with Third Powers

Japan shall not grant, without the prior consent of the United States, any bases or any rights, powers, or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, to any third power.[8]

/It is not considered appropriate that the present agreement contain prohibitions with respect to the flow from Japan of supplies of strategic materials and equipment to countries or areas which are currently denied such supplies from United States sources as a result of the policy announced in NSC 48/2, 30 December 1949, and reflected in existing domestic export limitations. The Department of State will, however, take steps informally to secure from the Japanese Government adherence to the United States view with regard to this matter. The Department of State should adopt the approach heretofore utilized in its negotiations with other friendly nations on the subject./

8 See Art. XXV of the Agreement between the United States of America and the Republic of the Philippines Concerning Military Bases, March 26, 1947.

16. Costs of Garrison

[It is contemplated that, at a later date, a provision will be inserted for the purpose of defining the relationship of the Japanese government to the matter of garrison costs incurred by the United States during the post-treaty period. Inclusion of this provision awaits completion of studies instituted pursuant to Presidential order.]

[Production in Japan of
Defense Items Heretofore Prohibited

It is not believed that the present agreement on security should contain prohibitions with respect to the production in Japan of defense items heretofore prohibited.

Japan should be permitted, moreover, to resume productive use of primary war facilities in the manufacture of combat equipment and products, and also to resume production in secondary and war-supporting industries. It is felt that resumption of this production will automatically be influenced by the peaceful needs of the Japanese people.]

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POINTS TO BE CONSIDERED IN
THE FORMULATION OF THE TERMS
OF THE U. S.-JAPANESE BILATERAL AGREEMENT
ON SECURITY

1. Effective Date and Period of Application

The agreement will become effective simultaneously with the coming into force of the Treaty of Peace, and will remain effective until the withdrawal from Japan of U. S. security forces or until the adoption of a supervening security arrangement with respect to the Japan area.

2. Right of Manuever

The principle that the entire land mass of the Japan area will be regarded as a potential area for the defensive maneuver of military forces is accepted.

The U. S. military commander, acting in the normal chain of command, will have the unrestricted freedom to make strategic dispositions, with notice to the Japanese government, as may, in the light of existing threats to the external security of Japan, be deemed necessary. In the event of hostilities, or imminently threatened hostilities, the U. S. military commander will have the right to make such tactical dispositions, with notice to the Japanese government, as the military situation requires. Except in time of hostilities,

or imminently threatened hostilities, no major change of a permanent nature in the disposition of security forces will be made by the U. S. commander without consultations between representatives of the U. S. and Japanese governments.[1] In locating the aforesaid areas for strategic and tactical disposition, the fullest consideration consictent with military necessity shall be given to the welfare, health and economic needs of the native peoples of Japan.[2]

In the absence of hostilities or imminently threatened hostilities, the United States, upon notice to the Japanese government, shall have the right to use land and coastal sea areas of appropriate size and location for military exercises, for additional staging areas, bombing and gunnery ranges, and for such intermediate airfields as may be required for safe and efficient air operations.[3] Operations in such areas shall be carried on with due regard and safeguards for the public safety.[4]

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1 Paraphrase of the views of General MacArthur as set forth in memorandum of 14 June 1950.

2 See Art. V of U.S.-Denmark Agreement, April 9, 1941.

3 Agreement between the U. S. and Philippines Concerning Military Bases, March 26, 1947.

4 Ibid.

3. Japanese Public and Private Property Utilized by Security Forces for Garrison Purposes

Security forces will customarily be garrisoned at installations presently utilized by allied occupation forces, and all facilities currently required by them will remain under the exclusive control of the security forces.

Further assistance, including the use of additional land, installations or other facilities, as may be from time to time required by the security forces for garrison purposes, will promptly be provided by the Japanese government upon the certification of, and following consultations with, a representative of the United States government; provided, however, that nothing herein shall be construed as requiring the United States to certify its requirements to, or consult with, the Japanese government or officials thereof in connection with the utilization of land areas, installations or other facilities in the event of hostilities or imminently threatened hostilities; and provided further that, in the event of such hostilities or imminently threatened hostilities, the Japanese government will promptly provide, at the request of the U. S. military commander, such installations, facilities, materials, equipment, supplies and other assistance as he may deem necessary at the time and under the circumstances.

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Japanese real and personal property utilized from time to time by security forces will, when no longer required, be returned to the Japanese government in good condition, subject to normal depreciation or ordinary wear and tear. In cases of damage to such property during the period of use, except for losses arising directly from hostilities, compensation will be made following agreement between the U. S. government and the Japanese government.

4. Further Description of Rights[5]

The United States will have the rights, power and authority within installation or defense areas which are necessary for the establishment, use, operation and defense thereof or appropriate for the control thereof and all the rights, power and authority within the limits of territorial waters and air space adjacent to, or in the vicinity of, installations or defense areas which are necessary to provide access to them, or appropriate for their control.

Such rights, power and authority shall include, inter alia, the right, power and authority:

(a) to construct (including dredging and filling), operate,

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5 Agreement Between the U. S. and Philippines concerning Military Bases, March 26, 1947.

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maintain, utilize, occupy, garrison and control the installations or areas;

(b) to improve and deepen the harbors, channels, entrances and anchorages, and to construct or maintain necessary roads and bridges affording access to the bases;

(c) to control (including the right to prohibit) insofar as may be required for the efficient operation and safety of installations or defense areas, and within the limits of military necessity, anchorages, moorings, landings, takeoffs, movements and operation of ships and water-borne craft, aircraft and other vehicles on water, in the air or on land comprising or in the vicinity of the installations or defense areas;

(d) the right to acquire such rights of way, and to construct thereon, as may be required for military purposes, wire and radio communications facilities, including submarine and subterranean cables, pipe lines and spur tracks from railroads.

(e) to construct, install, maintain, and employ in any installation or defense area any type of facilities, weapons, substance, device, vessel or vehicle on or under the ground, in the air or on or under the water that may be requisite or appropriate, including

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meteorological systems, aerial and water navigation lights, radio and radar apparatus and electronic devices, of any desired power, type of emission and frequency.

In the exercise of the above-mentioned rights, power and authority, the United States agrees that the powers granted to it will not be used unreasonably, so as to interfere with the necessary rights of navigation, aviation, communication, or land travel within the territories of Japan. In the practical application outside installations and defense areas, power and authority granted there shall be, as the occasion requires, exercised after consultation between the two governments.

5. Shipping and Navigation[6]

United States public vessels operated by or for the Army or Navy Departments, the Coast Guard or the Coast and Geodetic Survey, and the military forces of the United States, military and naval aircraft and Government-owned vehicles, including armor, shall be accorded free access to and movement between ports and United States installations and defense areas throughout Japan, including territorial waters, by land, air and sea. This right shall include freedom from compulsory pilotage and all toll charges. If,

6 Agreement between the U. S. and Philippines Concerning Military Bases, March 26, 1947.

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however, a pilot is taken, pilotage shall be paid for at appropriate rates. In connection with entrance into Japanese ports by United States public vessels appropriate notification under normal conditions shall be made to the Japanese authorities.

Lights and other aids to navigation of vessels and aircraft placed or established in the installations and defense areas and territorial waters adjacent thereto, or in the vicinity, shall conform to the system in use in Japan. The position, characteristics and any alterations in the lights or other aids shall be communicated in advance to the appropriate authorities of Japan.

6. Jurisdiction over Garrisons, Defense Areas and Other Installations or Facilities

The United States will have exclusive jurisdiction over all installations and defense areas in Japan utilized by security forces and over the military and civilian personnel of the government of the United States and their families within the said installations or defense areas, as well as over all other persons within such areas except Japanese citizens. The government of the United States will retain the right, however, to turn over to the Japanese authorities for trial and punishment any person, other than a citizen of the United

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States, committing an offense in such areas. The Japanese authorities will have the privilege of turning over to the United States authorities for trial and punishment any of the United States military or civilian personnel and their families who may commit offenses outside of such areas. The Japanese authorities and the United States authorities will be prepared to undertake adequate measures to insure the prosecution and punishment of all such offenders, it being understood that the relevant evidence shall be furnished reciprocally to the two authorities.[7]

7. Exemptions in Favor of Security Personnel and Incoming Goods

All materials, supplies and equipment for the security forces and for the personal needs of military and civilian personnel and their families shall be permitted entry into Japan free of customs duties, excise taxes, or any other charges, and the said personnel and their families shall also be exempt from all forms of taxes, assessments and other levies by the Japanese government, including exemption from Japanese regulations pertaining to passports, visas and residence permits.[8]

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7 Patterned after the agreement between the United States and Liberia, signed at Monrovia, March 31, 1942.

8 Ibid

No member of the United States armed forces serving in Japan in connection with this agreement and residing in Japan by reason only of such service, or his dependents shall be liable to pay income tax in Japan except in respect of income derived from Japanese sources.

No national of the United States serving in or employed in Japan in connection with the administration, maintenance or operation of the U. S. security forces in Japan and residing in Japan by reason only of such employment or his spouse or minor children and dependent parents of either spouse, shall be liable to pay income tax in Japan except in respect of income derived from Japanese sources.

8. Postal Facilities

The United States will have the right to establish United States Post Offices within the facilities occupied by the security forces for the exclusive use of the latter and for civilian personnel who are nationals of the United States and who are employed in connection with the administration, maintenance or operation of the security forces. This is to include the right by the United States to regulate and control all communications between such installations and other United States Post Offices.

9. Sales and Services

The United States will have the right to establish in installations or areas utilized by the security forces, free of all licenses, fees, and sales, excise, impost or other taxes, Government agencies, including concessions, such as sales commissaries and post exchanges, messes and social clubs, for the exclusive use of the security forces and authorized civilian personnel and their families. The merchandise or services sold or dispensed by such agencies shall be free of all taxes, duties and inspection by the Japanese authorities.

10. United States Reserve Organizations

The United States will have the right to enroll and train all eligible United States citizens, residing in Japan, in the reserve organization of the armed forces of the United States, which includes the Officers' Reserve Corps and the Enlisted Reserve Corps, except that the prior consent of the Japanese Government shall be obtained in the case of such persons who are employed by the Japanese Federal or any Municipal or Provincial Government.

11. Relationship of Security Forces to the Japanese Government

The security forces neither have the responsibility nor the authority to intervene in the ordinary internal affairs of Japan.

In the event of civil unrest or riot, the Japanese government will have the privilege of inviting U. S. forces to take whatever measures are necessary under the circumstances to restore law and order.

The mission of security forces in Japan will be to (a) protect Japan in the event of aggression, (b) assist in the maintenance of internal order and security upon the invitation of the Japanese government, (c) train, or ~~in~~ assist in the training of, Japanese armed forces.

12. Limitations on Security Forces Garrisoned in Japan

(There will be no limitation as to the type, size or composition of security forces garrisoned in Japan.)

13. Withdrawal of Security Forces from Japan

(The date on which such security forces will depart from Japan will not be stipulated.)

14. Japanese Armed Forces

The United States agrees that, following ratification of the Treaty of Peace, such prohibitions against the rearmament of Japan as were imposed during the period of the occupation will cease to

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be operative insofar as they had previously constituted obligations to the United States under the Terms of Surrender.

It is acknowledged, in this connection, that the provisional garrisoning in Japan of security forces of the United States has for its purpose the protection and maintenance of peace and security in a manner consistent with the principles and objectives of the Charter of the United Nations, and that, whenever it appears to both nations that the Japanese government is adequately prepared to discharge this responsibility alone, and in accordance with its obligations under the Charter of the United Nations, the United States will withdraw the protection afforded by its security forces.

Concerning the future establishment of land, sea, or air forces by the Japanese government, the schedule for their creation, as well as the strength, type, composition, armament and other organizational features of such forces, will in all respects be determined by the United States government in consultation with the Japanese government.

Prior to the withdrawal of U. S. security forces from Japan, or until a superceding security arrangement is entered into in pursuance of Article _____ of the Treaty of Peace, all U. S. and Japanese forces will be subject to the operational control of the U. S. military

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commander in the event of hostilities or imminently threatened hostilities.

Although a Japanese chain of command will be established in a manner consistent with the sound development of such forces, and pursuant to which a Japanese command, independent of U. S. supervision, will be responsible for, among other things, all matters of administration, the U. S. military commander will in no respects be subject to the control of the Japanese government or its military adjuncts.

Japanese armed forces, or any branch, arm, or contingent thereof, will not engage in any form of combat operations except upon the express approval of, and subject to the operational control of, the U. S. military commander, acting through the chain of command within the U. S. government.

15. Other Units Under Arms

a. Japanese Coastal Patrol

Japanese Coastal Patrol units, in the performance of naval duties, will be under the operational control of the U. S. military commander in the event of hostilities or imminently threatened hostilities. With respect to ordinary or non-naval functions of Coastal

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Patrol units, the Japanese government will consult with the U. S. military commander and keep him informed of their activities.

Additions or diminution in strength of such units will be subject to the determination of the U. S. military commander in consultation with the Japanese government.

b. Police Forces

Municipal, rural, national, or other police contingents, while subject to the control of the Japanese government in the performance of ordinary or local police functions, may be directed by the U. S. military commander, in consultation with the Japanese government, in the event of hostilities, to participate in the defense of Japan. Operational control over said units will be vested at such time in the U. S. military commander, who will act through the normal chain of command in its effectuation.

16. Defense Production in Japan

Although generally subject to the peaceful needs of the Japanese people and the danger to the economy of overproduction of armament items, Japan will be permitted to resume productive use of primary war facilities in the manufacture of combat equipment end products, and also to resume production in secondary and war-supporting industries.

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The Japanese government will undertake to advise the U. S. government with regard to all aspects of such defense production and will accept recommendations of the latter concerning, in the light of overall security requirements, increases in the production of items in short supply or decreases in the production of items deemed unnecessary from the standpoint of collective security requirements.

17. Relationships with Third Powers

Japan will not grant, without the prior consent of the United States, any bases or any rights, powers, or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, to any third power.[8]

With respect to its trade and commerce, Japan will not engage in any trade or any other form of economic activity with the Soviet Union, Communist China, or the satellite areas which would have the result of contributing directly to their military capabilities.

Garrison Costs or Other
Post-Treaty Economic Arrangements with Japan
(tentative alternatives)

If, prior to final negotiation of the Treaty of Peace, the United States takes the view that the Japanese government is competent

8 See Art. XXV of the "Agreement Between the United States of America and the Republic of the Philippines Concerning Military Bases," March 14, 1947.

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to insure the continuance of a sound economy, independently managed in such a manner as would not endanger the security of Japan, a full "pay-as-you-go" arrangement would be favored. Should this be the case, no future control of the economy by the United States would be contemplated.

Alternatively, if it appears uncertain that the Japanese government could assure a continuance of safe fiscal and budgetary policies in the post-treaty period, a degree of control over the economy will be required. This might be effected by calling upon the Japanese government for at least partial payment of the costs of garrison. In this situation, U. S. economic assistance would undoubtedly be necessary. The resulting bilateral agreement setting forth the terms and conditions of such assistance would establish the degree of control generally provided for in currently existing ECA bilateral arrangements with other nations.

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April 23, 1951

MEMORANDUM FOR MR. DULLES

FROM MR. ALLISON

Subject: Comments on views of Joint Chiefs of Staff dated April 17, 1951 on Japanese Peace Treaty

The memorandum under discussion reveals certain inconsistancies but also makes clear the reluctance of the United States Joint Chiefs to go ahead with the conclusion of a Japanese Peace Treaty prior to the cessation of hostilities in Korea. The memorandum of April 17th on the peace treaty and covering letter from General Marshall of April 19th if taken literally reveal a definite reluctance on the part of the Defense establishment to proceed expeditously in anything like the manner which is desired by the State Department.

General Marshall's covering letter of April 19th states that the views which he is giving are "interim views" and that the final views of the Department of Defense on various documents relating to a Japanese peace settlement will be provided "at a later date when the drafting of these documents has reached the stage of completion." This presumably means that only after the treaty and all other relevant documents have been finally agreed to by the various nations concerned and completed papers drawn up will the Joint Chiefs of Staff comment. Under this procedure the Joint Chiefs would have the opportunity of rejecting after everyone else had reached agreement whatever they disliked and it is difficult to foresee how under such conditions any internationally agreed upon documents can ever be obtained.

While in Paragraph 6 of the Joint Chiefs of Staff views on a peace treaty it is stated that the Joint Chiefs believe "a satisfactory treaty of peace with Japan should be signed at an early date", it is made clear in that paragraph as well as in the following paragraphs that such a treaty should not come into effect until after agreement by the Joint Chiefs. As conditions precedent to agreement the Joint Chiefs specifically and by implication set up the following:

1. In view of the risk that the USSR, if it did not sign the treaty, might take action to

exercise its "presumptive right to occupy Japan" it is essential that the proposed treaty "NOT come into effect until the divisions which are to constitute the United States garrison forces are in place in Japan;" (Paragraph 8 b)

2. The peace treaty must not be permitted "to become effective without the coming into effect simultaneously of a bi-lateral United States-Japan treaty of security;" (Paragraph 8 e)

3. No Japanese peace treaty can become effective prior to the termination of hostilities in Korea. (Paragraph 10 a)

With respect to the proposed bi-lateral United States-Japan treaty of security the Joint Chiefs maintain that it also must not come into effect until the divisions which are to constitute the United States garrison forces are in place in Japan and "until the United States is exercising its rights as to base areas, installations and facilities." It is difficult to understand how the United States can begin to exercise the rights under bi-lateral treaty prior to its coming into force and also how such a treaty can come into force prior to the conclusion and coming into force of the over-all peace treaty which forms the basis upon which the bi-lateral treaty is concluded.

In the same document the Joint Chiefs comment on the draft treaty with Australia and New Zealand and raise specific objections to Article 7 of the draft treaty, which sets up a defense council, and to Article 8 of the draft treaty, which provides for consultation and coordinated planning with other regional organizations. In this connection the Joint Chiefs state that there should be "no reference of any nature in any new security arrangements with nations of the Pacific islands other than Japan (if such arrangements must eventuate) to military plans, planning, or organizations therefore." If the Joint Chiefs maintain their position in this respect it will, in my opinion, be impossible to include any joint security arrangements acceptable to the Australians and New Zealanders with the consequent result that those commonwealth nations would not acquiesce in the type of Japanese peace treaty which all elements of the United States Government, including the Joint Chiefs, have agreed is desirable. It has

been made very clear to the United States by the Australian government that no form of security arrangement will be satisfactory unless some form of organization for mutual planning and consultation is included. In Foreign Minister Spender's message to Mr. Dulles of April 13, 1951 in which he outlines the type of statement he might wish to make in case the United States was not able to make an authoratative statement he stated specifically "that while no elaborate organization is envisioned, the arrangements under discussion provide for consultative machinery through which the parties could concert their policies and planning." In the Foreign Minister's statement of April 18th issued at the time of the President's announcement in this country he said, inter alia, "close association of Australia and New Zealand with the United States under an arrangement based on the principles of self-help and mutual aid and containing adequate provisions for consultation would constitute a solid guarantee to peace in the Pacific and to the security of Australia." (underlining added)

The position of the Joint Chiefs is difficult to understand in view of the statements made to Mr. Dulles in January to the effect that they would recommend some security arrangement with Australia and New Zealand which would encourage those nations to carry out willingly their Middle East commitments. The statement quoted above is also difficult to understand in view of the statement in Paragraph 7 of the Joint Chiefs' comments of April 17th on the memorandum of the British Chiefs of staff. Paragraph 7 of that statement reads as follows:

> "It now appears that the security of the Pacific against communist aggression, together with security against possible Japanese aggression, can best be attained, in the future, by Japan's membership in the United Nations and in a mutual security arrangement with the United States together with a continuation of current United States security arrangements with the Philippine Islands and with concurrent mutual security arrangements whose membership would include certain of the Pacific Island nations in addition to the United States. An essential feature of continued orientation of Japan to the West lies in the economic development of that country and in close commercial ties with the West."

In reading the Joint Chief's comments and studying their implications it is difficult not to conclude that their

basic desire is to force delay in the coming into effect of any Japanese Peace Treaty and that one of the methods by which they hoped to secure this delay is by the creation of difficulties in the conclusion of mutual security arrangements with Australia and New Zealand which it is recognized is a condition precedent to obtaining the consent of those countries to the United States draft of a peace treaty with Japan.

In my opinion the difficulties between the State and Defense Departments are of a fundamental character and an effort should be made to resolve them at once. I am afraid that in the past apparent difficulties have been resolved by the use of language which glossed over differences but did not in fact settle them and that we should now meet the issue head on and come to a definite complete understanding.

JMAllison:kg

37

Add a new Paragraph No. 2 to the text of the US-Japan Security Treaty to read as follows:

"2. Inasmuch as the Unified Command of the UN is under the United States, pursuant to the Security resolution of July 7, 1950; and inasmuch as the Governments of the United States and Japan, in signing this day the US-Japan Security Treaty, have recognized their common security interests in the Far Eastern area requiring mutual collective self-defense arrangements in accordance with Article 51 of the UN Charter, it is agreed between the United States and Japan that when the forces of a member or members of the UN are engaged in operations in continuation, extension or development of the present UN action in the Far East at the time or after this Treaty goes into effect, or when forces of the US are engaged in operations to maintain the international peace and security of the Far Eastern area, and in consideration of their common security interests, Japan will permit and facilitate the United States or members of the UN to support forces through, in and about Japan. Such use of Japanese facilities and services will be at the expense of the members of the UN, except for those facilities and areas provided to the United States pursuant to the administrative agreement implementing the Bilateral Treaty between the United States and Japan for collective Self-Defense."

DRAFT - 23 July 1951

K. T. Young

EXCHANGE OF NOTES BETWEEN
THE GOVERNMENTS OF THE UNITED STATES
AND JAPAN ACCOMPANYING THE US-JAPAN SECURITY TREATY

"Whereas, the Charter of the United Nations provides that all members shall give the UN every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the UN is taking preventive or enforcement action, and that States which are not yet members of the UN shall act in accordance with these principles, and Japan, by the Treaty of Peace, has this day accepted the foregoing obligations; and

"Whereas, there has occurred aggression in Korea, against which the UN and its members are taking preventive action, and the General Assembly has called upon all States and Authorities to lend every assistance to the UN action and to refrain from giving any assistance to the aggressor; and

"Whereas, the Unified Command of the UN is under the United States, pursuant to the Security Council resolution of July 7, 1950; and

"Whereas, the Governments of the United States and Japan, in signing this day the US-Japan Security Treaty, have recognized their common security interests in the Far East area requiring collective self-defense arrangements in accordance with Article 51 of the UN Charter;

"It is agreed between the United States and Japan that when the forces of a member or members of the UN are engaged in operations in continuation, extension or development of the present UN action, or in any other UN action, in the Far East after this Treaty goes into effect, Japan will permit and facilitate the [United States or] members of the UN to support ~~forces~~ through, in and about Japan. Such use of Japanese facilities and services will be at the expense of the members of the UN, except for those facilities and areas provided to the United States, the use of which will be in conformity with the administrative agreement implementing the US-Japan Security Treaty."

and from to enjoyed

TOP SECRET

DRAFT
20 July 1951
K. T. Young

EXCHANGE OF NOTES BETWEEN
THE GOVERNMENTS OF THE UNITED STATES
AND JAPAN REGARDING THE US-JAPAN SECURITY TREATY

"Whereas, the Charter of the United Nations provides that all members shall give the UN every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the UN is taking preventive or enforcement action, and that States which are not yet members of the UN shall act in accordance with these principles, and Japan, by the Treaty of Peace, has this day accepted the foregoing obligations; and

"Whereas, there has occurred aggression in Korea, against which the UN and its members are taking preventive action, and the General Assembly has called upon all States and Authorities to lend every assistance to the UN action and to refrain from giving any assistance to the aggressor; and

"Whereas, the Unified Command of the UN is under the United States, pursuant to the Security Council resolution of July 7, 1950; and

"Whereas, the Governments of the United States and Japan, in signing this day the US-Japan Security Treaty, have recognized their common security interests in the Far Eastern area requiring ~~mutual~~ collective self-defense arrangements in accordance with Article 51 of the UN Charter;

"It is agreed between the United States and Japan that when the forces of a member or members of the UN are engaged in operations in continuation, extension or development of the present UN action in

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the Far East at the time or after this Treaty goes into effect or when forces of the US are engaged in operations in the area to maintain the international peace and security of the Far Eastern area, and in consideration of their common security interests, Japan will permit and facilitate the United States or members of the UN to support such members forces through, in and about Japan. Such use of Japanese facilities and services will be at the expense of the members of the UN, except for those facilities and areas provided to the United States pursuant to the administrative agreement implementing the Bilateral Treaty between the United States and Japan for collective Self-Defense."

which we shall be in conformity with,

DRAFT-K. T. YOUNG-25 July 1951

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EXCHANGE OF NOTES BETWEEN
THE GOVERNMENTS OF THE UNITED STATES
AND JAPAN ACCOMPANYING THE US-JAPAN SECURITY TREATY

Whereas, the Governments of the United States and Japan, in signing this day the US-Japan Security Treaty have recognized their common security interests in the Far East and Japan areas requiring collective self-defense arrangements in accordance with Article 51 of the United Nations Charter and by virtue of their inherent rights as sovereign nations; and

Whereas, Japan has this day accepted, by signing the Treaty of Peace, certain obligations under the Charter of the United Nations; and

Whereas, the United States and Japan wish to give expression to their mutuality of interests in the Far East and Pacific areas and to desire to concert their efforts for collective defense for the preservation of peace and security as an interim measure in the development of more comprehensive mutual security arrangements in the Far East and Pacific areas;

It is agreed between the United States and Japan that when forces of the United States are engaged in operations to maintain peace and security in the Far East and Pacific areas, Japan will permit and facilitate the United States to support such forces through, in and about Japan in accordance with the general terms of the US-Japan Security Treaty signed this day by both Parties.

It is further agreed that during the effective operation of this Treaty and to provide for its transition into a more comprehensive

and final form of mutual security arrangement for the Pacific, the Governments of the United States and Japan will prepare such joint and separate steps as may be necessary and appropriate to develop their individual and collective capacity to resist armed attack in the Far East or Pacific areas. They will thereby seek eventually to unite their efforts with other Pacific countries for collective defense and for maintenance of peace and security under suitable mutual arrangements. Accordingly, this treaty shall expire whenever in the opinion of the Governments of the United States and of Japan there shall have come into force such United Nations arrangements or such alternative individual or collective security dispositions as will satisfactorily provide for the maintenance by the United Nations or otherwise of international peace and security in the Far East and Pacific areas.

S-MR ALLISON

OUTGOING TELEGRAM

Department of State

12 NOO

INDICATE: ☐ COLLECT ☐ CHARGE TO DEPT

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CONTROL

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SENT TO: USPOLAD, TOKYO - PRIORITY 129

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Bureau of FAR EASTERN AFFAIRS JUL 30 1951 ASSISTANT SECRETARY Department of State

JUL-27-51

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SEBALD FROM DULLES

Various US DEPTS concerned have now completed final consideration proposed Bilateral Security Treaty. This consideration leads us to propose FOL changes which we consider to be desirable clarifications not involving any change of substance or intent:

1. At end of second PARA, after QTE world UNQTE add new sentence reading QTE Therefore JAP desires a security treaty with the US to come into force simultaneously with the coming into force of the Treaty of Peace between JAP and the US and other Allied Powers UNQTE

Dist. Desired (Offices Only)

The purpose here is to make clear that the coming into force of this Treaty is intended to be simultaneous with the Peace Treaty so there will be no interval of power vacuum, or ambiguity.

2. In PARA 3, after word QTE JAPAN UNQTE add QTE as a sovereign nation UNQTE

The purpose is to bring this third Preamble into closer

Drafted by: John Foster Dulles:MA:o

Telegraphic transmission and classification approved by: J.M.Allison

Clearances: 7/27/51

Cleared in draft with Mr. Rusk-FE

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conformity with the actual text of the ART 5 (c) of the draft Treaty of Peace.

3. ART 1, substitute QTE dispose UNQTE for QTE station UNQTE.

The purpose is stylistic to use a word which corresponds more nearly with normal military parlance. This we assume would involve no change in the JAP text.

4. Change second sentence of ART 1 to read QTE Such forces may be utilized to contribute to the maintenace of INTL peace and security in the Far East and to the security of JAP against armed attack from without, etc. UNQTE

The purpose is to make clear that the US forces in and about JAP are not earmarked and dedicated so exclusively for JAP that they CLD not be used elsewhere to maintain INTL peace and security as, for example, US forces in and about JAP were used for the aid of So. Korea when it was attacked. Recognition of this fact is in our common interest. In view of the responsibilities of the US in the area and its commitments to the PHILS, NZ and AUSTR, the US CLD not afford to earmark any particular forces exclusively for any particular area. We don't think that this was ever the intent of ART 1 but DEPDEF now insists on necessity of expressly negativing any such possibility.

The phrase QTE Such forces may be utilized, etc UNQTE as is substituted for QTE Such disposition, etc. UNQTE purely as clarification. We believe it is implicit that forces could be

utilized for the purposes mentioned but this is preferably made explicit.

5. ART 2, insert after QTE maneuver UNQTE the words QTE or transit of ground, air or naval forces UNQTE

We believe this is already included in the concept of QTE maneuver UNQTE but again DEPDEF feels clarification desirable.

After informing Gen. Ridgway PLS clear foregoing as rapidly as possible with JAP GOVT.

ACHESON

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THE SECRETARY OF DEFENSE

Washington

11 Aug 1951

Dear Mr. Secretary:

The Department of Defense fully considered the draft of a US-Japan Security Treaty, which Mr. Dulles submitted to the Secretary of Defense with a letter of 10 July 1951, and has made known its views informally to the Department of State. I am now forwarding to you officially the views of the Joint Chiefs of Staff and the Joint Secretaries, both dated 17 July 1951.

As you know, representatives of the Department of Defense have discussed these views at several meetings with Mr. Dulles and have reached agreement on language which has been incorporated in the enclosed drafts of the treaty and diplomatic note. This letter is to confirm the views of the Department of Defense and these agreements.

It is my understanding that the enclosed draft of a US-Japan Security Treaty and the enclosed note from the Secretary of State to the Japanese Prime Minister give full effect to the security requirements, and the views of the Department of Defense are acceptable to the Department of State and have been agreed to by the Japanese Government. I would appreciate your confirmation that these are the final drafts for signing by United States and Japanese representatives which, including the Administrative Agreement, will all be signed and come into force at the same time as a Japanese Peace Treaty. In this connection, I have noted, and the Joint Chiefs of Staff have been informed of, your letter of 24 July 1951, particularly the last paragraph to the effect that, "It is the intent on, and it will be kept within the power of the United States, to assure that the Bilateral Security Treaty and our Treaty of Peace with Japan do come into effect simultaneously." I expect to forward the comments of the Department of Defense on the Administrative Agreement to you very shortly.

Since the US-Japan Security Treaty deals primarily with military matters and will provide the significant framework for United States security in the Western Pacific for several years to come, the Department of Defense would be glad to acquaint the Senate and House Armed Services Committees regarding the substance and implementation of this treaty, in line with Mr. Dulles' suggestion in his letter of 10 July 1951.

The question of the release of this treaty also concerns us in the Department of Defense in view of the military implications of possible Soviet reaction. On that account I have asked the Central Intelligence Agency to prepare an estimate of such reactions. I entirely concur in the present plans of Mr. Dulles and the Department of State to hold off publication of the treaty at least until just a few days before the San Francisco Conference. It might even be advisable, from the military viewpoint, to withhold release of the actual text of the treaty until some time after the San Francisco Conference.

I take this opportunity to extend the appreciation of the Department of Defense for the rapid success with which Ambassador Sebald in Tokyo gained the assent of the Japanese Government to the changes in the draft US-Japan Security Treaty, and for the cooperation of Mr. Dulles and the Department of State in embodying the views and recommendations of the Department of Defense in the attached drafts.

Faithfully yours,

/s/ Robert A. Lovett

Acting Secretary

Enclosures

The Honorable

The Secretary of State

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August 15, 1951

My dear Mr. Secretary:

Thank you very much for your letter of August 11 forwarding the drafts, as agreed to informally between the Departments of State and Defense, of a United States-Japan Security Treaty and an accompanying note to the Prime Minister of Japan to be signed by the Secretary of State.

The draft of the United States-Japan Security Treaty as forwarded in your letter does represent the final text of that document. It is planned to sign it at San Francisco promptly following the signature of the Treaty of Peace with Japan.

The exchange of notes with the Prime Minister of Japan will take place at the time of signature of the Security Treaty. As Mr. Dulles informed your representatives during the discussion of this document, however, it may be that the language at the end of the second paragraph and at the beginning of the third paragraph will need to be altered somewhat in the light of what actually happens in Korean armistice discussions. It may also be necessary to eliminate the word "preventive" from the first sentence of the second paragraph since there is some question as to whether the current United Nations action in Korea is "preventive" or "enforcement" action. That part of the third paragraph, however, which sets forth Japan's commitments represents the final wording of the note.

It is the intention, and will be kept within the power of the United States, to assure that the Security Treaty, with its accompanying exchange of notes, and the Administrative Agreement implementing the Security Treaty, come into effect simultaneously with the Treaty of Peace.

The question of signing the Administrative Agreement at the same time as the other documents raises a number of practical difficulties. The Defense Department's revision of the Agreement has not as yet been received in the Department of State and the time remaining between now and the departure for San Francisco is so short that it is doubted whether it is feasible to reach agreement between our two Departments and negotiate the details

of such

The Honorable
George C. Marshall,
Secretary of Defense.

TOP SECRET

of such a complicated document with the Japanese before September 4. I am sure that you are well aware that the time of signing of this Agreement bears no relation to the time when it shall come into force.

The Department of State concurs with your view that publication of the Security Treaty should, if practicable, be delayed until signature.

It is noted that the Department of Defense would be glad to acquaint the Senate and House Armed Services Committees regarding the substance of the Security Treaty.

I would like to take this opportunity to express our appreciation of the cooperation shown by your office and the Joint Chiefs of Staff in enabling us to reach mutually satisfactory agreement on the terms of the Japanese Peace Treaty, the Bilateral Security Treaty and the notes to be exchanged.

Sincerely yours,

James E. Webb
Acting Secretary

S:JFDulles:
CSBabcock:mb 8/13/51
S/S:EDSohm:gc 8/15/51

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OFFICE OF
JOHN FOSTER DULLES
NOV 16 1951

UNDER SECRETARY'S MEETING

NOTES
9:30 A.M., Wednesday, November 14, 1951

Korean Military Situation

1. Mr. Howe reported on the current Korean military situation.

Communist Propaganda Activities

2. Mr. Harvey reported that there has been considerable comment on the Secretary's speech on disarmament. The Communist press states that the proposals are fraudulent and were forced on the U.S. by pressures of peoples in their desire for peace. In commenting on Eden, the Communist hopes that he would serve as a mediator are dashed. Vishinsky's speech is given heavy play.

3. Mr. Harvey noted that there has been no attack on Churchill since his becoming Prime Minister. There is a trend to show that the British are victims of U.S. policies and not partners in making it.

4. Mr. Harvey noted that Chinese trade has shifted drastically to the Soviet orbit. Mr. Rusk, in commenting on this point, noted that there were negative aspects to this fact. He pointed out that if we were maintaining trade ties with China, we would have something to work with in shaping the course of that regime. Mr. Nitze noted that probably the trade would have moved to the Soviet orbit anyway, even if we had not forced it to move in that direction. Mr. Webb suggested that we should take a careful look at the problem of East-West trade, because the Communists may put us on the defensive with respect to this problem. He suggested that P and S/P should be in on this problem, especially as it related to the education of the people on the domestic aspects of East-West trade. Mr. Linder pointed out that the Soviets are getting more difficult in their dealings with European nations, because of their reactions to our East-West trade policy.

Iranian Situation

5. There was a general discussion of the current Iranian situation. During the course of the discussion, Mr. Webb suggested that we document what we are doing in the Middle East, namely Iran, so that we would have a historical record and all of the documentation available, in case it is needed. Mr. Webb also felt that this record and documentation might be helpful in analyzing what we should do next. This discussion concluded

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when Mr. Webb indicated that he would get together with Mr. Matthews and decide what group should discuss this problem further and what steps should be taken as a result of the most recent events.

Administrative Agreement with Japan

6. Mr. Rusk reported that he is working on the broad administrative agreement with Japan which basically covers conditions of stationing American troops in Japan. He pointed out that there will be many difficult problems which will follow the success credited to our occupation and the recent peace conference. In the solution of some of these problems there may be a let-down. It is anticipated that we will have some difficulties with the Japanese and the JCS. He suggested that S/P might wish to reexamine the broad underlying philosophy of our administrative agreement as to whether stationing of troops over a period of years will drain off our goodwill with the Japanese people. He pointed out that EUR has a similar problem with respect to Germany.

7. Mr. Rusk stated that this administrative arrangement will be signed by executive agreement and not submitted to Congress, in order to retain the necessary flexibility in administering such an agreement. Mr. Rusk expects to go to Japan for preliminary talks as soon as the security pact and the peace treaty are ratified by the Diet. Early in January, he expects to return to Japan for final discussions, and, at the same time, have the agreement in the hands of the Senate prior to its action on the ratification of the treaties.

8. Mr. Rusk pointed out that the Japanese will have considerable difficulty going from their present status to full sovereignty. It will also be difficult for us. We must make every effort to preserve the forms of equality and sovereignty, so that Japan can become adjusted as quickly as possible to present world conditions. We must maintain U.S. prestige in Japan. This element of prestige has not been completely analyzed but it is a very important factor. We must persuade the Japanese that what follows is a common enterprise, a joint responsibility, and one in which they must make their contribution. Our success in these resultant actions will have an important effect on other nations in Asia. We cannot be put into a position of forcing our way into Japan. Mr. Rusk noted that there will be a problem of whether Japan can be given the "most-favored-nation treatment" similar to what is given NATO countries. When this question arises, Defense may wish to re-open the entire NATO question. The JCS at the present time does not accept equality of Japan and the NATO countries.

9. Mr. Rusk

9. Mr. Rusk stated that the following physical arrangements are suggested, on the assumption of no hostilities in Korea:

a. The number of American troops stationed should be limited to the requirements of Japan itself. Security requirements for the rest of the Far East should be handled by using bases outside of Japan.

b. We should use the facilities formerly used by the Japanese armed forces and get out of Japanese commercial facilities.

c. We should avoid large cities.

d. CINCFE should be located outside of Japan, so that Japan would not be brought into general Far East difficulties, and also so that CINCFE would not be cut off in case of an emergency.

e. American forces should be so located that they would have control over their own lines of communication.

f. In order to limit facilities, the number of dependents should be restricted.

g. Recreation facilities should be on a shared basis.

h. Standard of living should be similar to that in the U.S. and should not be ostentatious.

i. The U.S. should give up the Dai-Ichi building and other Japanese buildings.

j. An intensive information program among our troops stationed in Japan should be maintained.

10. Mr. Rusk pointed out that the above does not represent a final position and requires considerable more discussion, especially with Defense. Defense will have serious differences with us on many of the above points, such as quarters, location of CINCFE, etc.

11. As a corollary to the above discussion, Mr. Nitze pointed out that we need Defense plans on how they plan to protect the Far East area. Apparently they have not looked at the problem of continued build-up of Chinese Communist forces and how we cope with this factor.

Dulles

[illegible] 4 [illegible] 13 [illegible] 7

The Secretary

S/S

FY - Mr. Allison

February 9, 1953

Collective Defense Measures with Japan

PROBLEM

We have received two telegrams from Tokyo dealing with Article XXIII of the Administrative Agreement which describes the collective defense measures which may be taken "in the event of hostilities or imminently threatened hostilities in the Japan area". We requests a United States Government position as to whether we press for the language in our present draft or authorize modifications of it to meet the Japanese viewpoint.

BACKGROUND

Article XXIII constituted one of the major points of difference between State and Defense, and it seemed likely that the decision would have to be put up to the President. However, agreement was finally reached to present to the Japanese a draft of Article XXII which provides for a unilateral United States determination as to whether an emergency exists and for the abrogation of the limitations imposed by the Administrative Agreement if necessary to carry out the purposes of Article I of the Security Treaty and to ensure the security of United States forces. A combined Command with a United States Commander may be established by agreement with the Government of Japan.

CURRENT NEGOTIATIONS WITH THE JAPANESE

The Japanese have in these negotiations been taking the kind of position that might be expected of a friendly sovereign nation. They have informally expressed their willingness to do all that we ask in our draft of the Administrative Agreement. However, because of domestic political difficulties they cannot in a public document subscribe to some of the commitments which we have requested them to make. This situation applies particularly to Article XXII. There has been great public concern in Japan over such questions as our possible use of Japanese bases for atomic attacks upon China or Russia and possible commitments for the use of Japanese forces. In our opinion, the Japanese are not overestimating their domestic problem when they say that the provision for the virtual abrogation of the limitations of the Agreement in an emergency situation would undoubtedly create the impression among the Japanese people that the Agreement is a "mere scrap of paper".

The Japanese have put forward as their proposal the following simple statement:

"In

TOP SECRET SECURITY INFORMATION

"In the event of hostilities, or imminently threatened hostilities, in the Japan Area, the Governments of Japan and the United States shall immediately consult together with a view to taking necessary measures to carry out the purpose of Article I of the Security Treaty."

This language does not give us a clear right to take necessary measures to meet an emergency situation, and therefore will be unsatisfactory to the Joint Chiefs. Mr. Rusk, with Earl Johnson's concurrence, says that the following should be the chief elements of our position:

(a) The limitations of the Administrative Agreement should not apply in an emergency.

(b) The United States forces must act in an emergency to carry out the purposes of the Security Treaty and to provide for their own security.

(c) We should accept the principle of consultation on joint measures which the United States and Japan might agree to take in an emergency.

Mr. Rusk suggests that we may find it both necessary and desirable to go one step further and agree to consultation even with respect to measures taken by the United States, since such consultation would inevitably have to be undertaken even though we could not make our necessary action subject to its results. He also points out that in the negotiations we will have major difficulties with respect to facilities and areas, the sharing of expenses, and jurisdiction. His belief is that we should not utilize our ammunition on this article.

The last attachment is a draft of language which might be a reasonable compromise. I have talked with Frank Nash about this subject, and he believes that it may be possible to find a middle ground which will be acceptable to the Joint Chiefs of Staff, and he is giving our suggested language some further consideration.

RECOMMENDATION

The United States Government should authorize Mr. Rusk to accept the principle of consultation even with respect to the measures the United States forces must take in an emergency. It should be left to Mr. Rusk's discretion to achieve the best possible result on Article XVII and the greatest advantage in the negotiations from whatever concession is made to the Japanese viewpoint. The chief reasons for the adoption of this recommendation follow:

1. Consultation with the Japanese, even in an emergency, is inevitable

and

and would in any event be undertaken practically simultaneously with action to meet the emergency.

2. United States interests are probably best protected by avoiding public disclosure in the Agreement of the full extent of Japanese willingness to cooperate with us in the event of an emergency. Yoshida's best line now might be that these matters can most appropriately be left to further consideration and consultation between the two Governments.

3. However sweeping the language of the Agreement, it means nothing unless we have the full and willing support of the Japanese Government and people.

4. We need the support of the present Japanese Government for many measures which are unpopular in Japan - rearmament, reparations, restrictions on trade with mainland China, and facilities and areas for our forces. We should avoid imposing any further burden upon them unless it is absolutely necessary.

This subject will have to be taken up by the Joint Chiefs of Staff, but you may wish to discuss with Mr. Lovett the main questions of policy which are involved.

Attachments:

Tab A - Telegram from Mr. Dunn
No. 1649, February 8.

Tab B: Telegram from Mr. Dunn
No. 1651, February 8.

Tab C: (1) JCS proposal for Article XXII.
(2) State-Defense agreed draft.
(3) Japanese proposal.
(4) Article I of the Security Treaty.

Tab D: Suggested compromise language for Article XXII.

FE:RA:EWBlumkin:eb

Tab C

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JCS Draft (August 1951)

COLLECTIVE DEFENSE MEASURES

1. In the event of hostilities or when in the opinion of either party hostilities are imminently threatened in the Japan area, all United States forces in the Japan area, and all Japanese organizations, excepting local police, having military potential, shall, at the option of the United States, be placed under the unified command of a Supreme Commander designated by the United States Government.

2. In the event of hostilities, or imminently threatened hostilities, the Supreme Commander of all forces in Japan, designated in accordance with paragraph 1 above, shall have the authority to use such areas, installations and facilities in the Japan area and to make such strategic and tactical disposition of military forces in that area as he may deem necessary. In taking such actions, the Supreme Commander shall advise appropriate military authorities of the Japanese Government.

3. In locating the aforesaid areas for strategic and tactical disposition, the fullest consideration consistent with military necessity shall be given to the welfare, health and economic needs of the local population.

SECRET SECURITY INFORMATION

ARTICLE XVII, January 16, 1952

JAPANESE FORCES

It is recognized that, in the event of hostilities, or imminently threatened hostilities, in the Japan area, the United States will not be limited by this Agreement in taking the necessary actions to carry out the purposes of Article I of the United States-Japan Security Treaty and to ensure the security of its forces in Japan.

In the event of hostilities or when, in the opinion of either party, hostilities are imminently threatened in the Japan area, the United States may, in agreement with the Government of Japan, establish a Combined Command and designate a Commander thereof. Such a Commander would exercise operational command over all United States forces in the Japan area and over all Japanese security organizations in Japan, except local police, capable of contributing to the defense of Japan.

TOP SECRET SECURITY INFORMATION

Japanese suggestion for Article 22

In the event of hostilities, or imminently threatened hostilities, in the Japan area, the Governments of Japan and the United States shall immediately consult together with a view to taking necessary measures to carry out the purpose of article 1 of the security treaty.

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Security Treaty between the United States of America and Japan

Article I

Japan grants, and the United States of America accepts, the right, upon the coming into force of the Treaty of Peace and of this treaty, to dispose United States land, air and sea forces in and about Japan. Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East and to the security of Japan against armed attack from without, including assistance given at the express request of the Japanese Government to put down large-scale internal riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers.

ARTICLE XIII

[illegible] MEASURES

This Agreement assumes peace, not war. It assumes that the presence of United States forces in and about Japan will deter attack and prevent hostilities in the Japan area.

If these assumptions should prove not to be the case, and if there should be hostilities or imminently threatened hostilities in the Japan area, a new situation will have arisen the character of which cannot be foreseen [redacted], and the Governments of Japan and the United States shall immediately consult together concerning the necessary measures, including appropriate joint measures, to carry out the purposes of Article I of the United States-Japan Security Treaty.

In the event of such hostilities or imminently threatened hostilities the Commander of the United States forces in and about Japan will have the inherent rights of a field commander whose forces are subject to hostile attack, to make such disposition of his forces in and about Japan as he may judge to be required for their safety and the performance of their mission.

For comment

August 15, 1951

Gentlemen:

Thank you for your letter of August 1, 1951, in reference to the Japanese Peace Treaty. I appreciate your writing to me, and your letter will be given consideration.

Sincerely yours,

John Foster Dulles

Messrs. Shuichi Nojo and
Katsumi Otaki,
National Federation of
Repatriates' Association,
17 Ichibancho Koji-machi,
Chiyoda-ku, Tokyo, Japan.

S:AS

NATIONAL FEDERATION OF REPATRIATES ASSOCIATIONS

Tokyo 1 August, 1951.

Excellency:

The draft of the Japanese peace treaty made recently public by the Governments of the United States and the United Kingdom, the two declarations attached thereto as well as the protocol, and the conference to be held at San Francisco on September 4th for conclusion and signing of the treaty have afforded us the fourth opportunity to appeal to Your Excellency's intelligence and authority for our long cherished desire, by presenting this letter to you.

It is beyond our poor vocabulary to express our feeling of gratitude for the broad-minded support of Your Excellency and your country extended to the Japanese people at every possible opportunity up to the present and for the cordial assistance to the sound and orderly democratic development of the whole Japanese people.

Our implicit reliance, reverence and amity toward you and your country have not been brought about by any force but are arising from the very bottom of our hearts. This feeling of ours would be proven to be genuine directly and indirectly through our deeds after peace has been brought to Japan and her independence restored.

Now, our fate is to be determined on September 4th. We know that Your Excellency would easily understand our unrest, fretfulness and concern about the peace treaty. Paying our profound respect to you and your country for the utmost effort on your part for adjusting the various opinions held by all the Allied Powers which were in hostilities with Japan, and for establishing a permanent peace between Japan and those countries, we cannot, however, help doubting whether a fair peace such as intended by you and your country could be achieved with the peace treaty the draft of which has recently been made public.

As a matter of course, we Japanese people are conscious of being liable for fair and full compensation to the allied countries and their people for the great damages and distresses which we caused on them by waging a reckless war and destroying the order of the world. We are determined to make such compensations. However, we are convinced that the term of peace should in any case be fair, and that the title of justice should not be given to the victors only. We believe that you are also making preparations for the peace treaty with this idea.

"Losers are always in the wrong" is often quoted in Japan. There must be the same expression also in the western countries. It may be needless to explain its meaning to you. However, this expression, admiring justice on the victor's side only as an absolute one, will naturally bring up an idea such as to stick at nothing to gain one's end, and it is our sincere desire that such an idea be driven away by all means with a view to establishing a peaceful democratic Japan.

Accordingly, we must emphasize that the disadvantages coming from an unfair peace would be far much greater than the advantages to be given to some of the allied powers by depriving Japan of some pieces of her territory and by confiscating private properties of her people.

In fact, an unfair peace will sow the new seeds of the idea of "Might is right" in the hearts of the Japanese who are firmly determined to build up a sound and orderly democratic Japan, by tiding over every difficulty. Also, it will make Japanese people doubt about the international justice advocated by the western countries and cause them to lose faith in the western countries.

The above is the reason why we want to appeal for the forth time to Your Excellency's intelligence at this last stage. We have no intention of evading our liability at all, nor of making any demand in violation of justice and fairness.

The western countries proclaimed ~~declared~~ to the world to respect and observe the human right and fundamental freedom. In order to maintain justice, and to respect obligations under treaties and international laws, and further for social progress and improvement of the living standard, they are putting generosity into practice. Furthermore, they have enacted the United Nations Charter for peaceful co-existence of various countries as good neighbours and for the maintenance of peace and security in the international society.

It is our belief that this great ideal should not be limited only to the Allied Powers and their peoples, but should be applicable to all the peoples and countries in the world constituting the human society.

Your Excellency, it is indeed unbearable for us to worry you at this serious moment, but as we love justice and peace and cherish desire for realization of the above-mentioned great ideal in Japan also, we venture to express our frank opinions below, wishing ardently that a truly fair peace treaty be accomplished.

I. In Article 14 of the draft peace treaty, regarding the retention and liquidation of overseas property of Japanese nationals, there is no provision as to the obligation of the Japanese Government for compensation as in the Versailles Treaty

(Article 297, item i) or in the Italian Peace Treaty (Article 79, paragraph 3). This being nothing but the confiscation of private property, we cannot but construe it as a denial by the Allied Powers of the principle of non-confiscation of private property on land which is laid down by the international law.

At the conclusion of the Versailles Treaty the German delegates denounced Article 297, item (b) as the confiscation of private property (German Delegation: Note of 22 May, 1919). At this the Allied and Associated Powers replied, as you know well, as follows: (Reply of the Allied and Associated Powers: 16 June, 1919).

"The method of using this property laid down by the Treaty cannot be considered, either in principle or in the method of its application, as a measure of confiscation. Private German interest will only be injured by the measures contemplated so far as Germany may decide that they shall be, since all the proceeds of German property will be carried to the credit of Germany, who is required to compensate her own nationals, and will go to reduce her debt to the Allied and Associated Powers."

We must point out, however, that the above statement was possible just because an obligation for compensation had been imposed on the German State as provided for by Article 297, item (i).

To allow the Allied Powers to liquidate the overseas property is to abandon the claims to property of Japanese nationals within the Allied countries, and to abandon the right of diplomatic protection. Since such an abandonment will naturally be accompanied with "consideration," compensation becomes necessary. We believe it is also a traditional policy of your country.

In this connection, Mr. Borchard, an international jurist of your country, says in his "The Diplomatic Protection of Citizens Abroad" as follows:

"The abandonment or surrender of a private claim imposes no legal liability upon the state, under any circumstances, it is believed. When, however, a private claim is used as a set-off to obtain certain national advantage an equitable obligation arises to reimburse the individual whose private right has thus been sacrificed for the public good. In a noteworthy decision of the Court of Claim in a French Spoliation case, that Court, under the authority of Congress, translated this obligation into a legal liability, by holding the government responsible to its nationals for the French spoliation claims which had been surrendered to French in exchange for a release from the Obligations of the treaties of 1778 and 1788."

Furthermore, the Constitution of the United States provides, "... nor shall private property be taken for public use, without just compensation." The Constitution of Japan also provides

in Article 29, "Private property may be taken for public use upon just compensation." Therefore, it should be provided in the peace treaty, according to the precedent, that Japan, as a matter of principle, has an obligation to compensate her nationals for their private property appropriated for her reparation obligations.

We have to point out that a great blunder will be committed if the compensation on the part of the Japanese Government is not provided for the reason that Japan having no capacity to pay reparations, has no capacity to make compensation. Of course, reparation and compensation are two different things. Although the case is different, we remember that the following is stated in the "Statement by the United States Delegation" concerning Article 78 of the Italian Peace Treaty.

"The damage which Italy by her military effort has inflicted on territory of the United Nations can be compensated only through the transfer of assets from Italy to various United Nations. Obviously it cannot be compensated in full. Italy does not have sufficient transferable asset for this. Therefore the reparation problem is to determine the total amount of assets which Italy can transfer without destroying her own economic existence and to make an equitable allocation of this total among the reparation claimants.

However, the damage inflicted within Italy upon the property of United Nations' nationals has to be repaired in any case if Italy is to restore her economy; and its prompt rehabilitation is in Italy's interests. Furthermore payment of compensation as proposed by the U.S. does not involve the transfer of assets abroad. What is required is the payment of sums in Italian currency which can be used for repairing the damage and rehabilitating the property."

We believe that the compensation as is proposed in Article 15 of the Draft of the Japanese Peace Treaty is based upon the same principle. This view is very reasonable and, different as the case is, is applicable to compensation by the Japanese Government to her nationals who lost their overseas property in conformity with the peace treaty. Lack of capacity to pay reparations does not mean lack of capacity to make compensations. From the view-point of equity also, an obligation to make compensations should be inserted in the treaty. And, such compensation will contribute to the rehabilitation of Japan only if it is effected in a proper way. Respect for private property is an immutable tradition of your country. Instead of our awkward expression, we should like to quote again the some words from "Camillus Letters" by Alexander Hamilton.

"No powers of language at my command can express the abhorrence I feel at the idea of violating the property of

individuals, which, in an authorized intercourse, in time of peace, has been confided to the faith of our Government and laws, on account of controversies between nation and nation.

The right of holding or having property in a country, always, implies a duty on the part of its government to protect that property, and to secure to the owner the full enjoyment of it. Whenever, therefore, a government grants permission to foreigners to acquire property within its territories, or to bring and deposit it there, it tacitly promises protection and security."

II. The provision of Article 4 (A) is extremely ambiguous. The principle of the international law should be clarified by all means that the rights based upon the private laws acquired by the residents in the ceded areas in conformity with the internal laws of a transferor country must be respected by a transferee country, not affected by cession of territories. Therefore, as in the case of the Italian peace treaty, the private rights of the Japanese people who live in the areas, over which Japan is compelled to renounce her sovereignty, should be respected by a transferee country (including the areas which are to become independent). Concretely the properties, rights and interests of these Japanese people (including juridical persons) in the areas to be ceded, provided they have been lawfully acquired, should not conform to the provision of Article 14, (A) II, 1. One clause to the above effect should be added to the exceptions provided for in Article 14.

III. It is perhaps a matter of course that an obligation is imposed upon us to indemnify the component members of the Allied Forces, who suffered from unreasonable tortures while they were prisoners of war in Japan. However, we must say that the provision of Article 16 intended for confiscating for the above reason all the private properties in neutral and Axis Countries stipulates an unprecedentedly cruel and unfair disposition, (though we hear that such has been enforced in Germany recently). Although Article 16 gives the International Red Cross Commission the right to liquidate these properties, the International Red Cross Commission is, in short, a kind of fiction. In our opinion such a disposition is an expansion of the right of the Allied Power Governments for liquidation beyond their area limit, namely, their territories, in which we cannot find any reasonableness.

As to the treatment of prisoners of war, it is a common discipline to be strictly observed by all nations; therefore, should the indemnification not be effected in principle of mutualism? We must say that it is repetition of unreasonableness to make such a disposition in violation of the international law as confiscates private property in neutral countries for the indemnification, and that it is a reckless persistence in the justice of victors. We stress here that, to make it thoroughly understood that the whole nation is responsible for such

indemnification, a measure should be taken so that the indemnification be burdened directly by the whole nation, and that the indemnification should not be carried out at the sacrifice of specified persons.

IV. The fact that after the surrender of Japan the Allied Powers repatriated all the Japanese even from the Japanese territories, to say nothing of the Japanese former occupied areas, should be stated in the Japanese peace treaty. ~~Thus legalising such a disposition~~. We need not reiterate how many tragic events were created by the compulsory repatriation of the Japanese civilians totalling more than three million, which tragedy is indeed without parallel in the world history.

The Potsdam Declaration provides for the repatriation of Japanese army and nothing has been stipulated as to civilians. We cannot understand on what reason and ground such unprecedented and unjust measures were taken, despite the fact that no arrangement had been made in the "Basic Post-surrender Policy for Japan" (The Far East Commission Policy Decision) and the like.

The fact is that such a surprisingly large number of Japanese were deported from their homes against their will, being allowed to take with them only a few personal effects, and even the documents which would prove their property rights were not allowed to take. The losses or injuries caused thereby on life, body, and property are indeed immeasurable.

We cannot but think that such measures as may be called a mass deportation of Japanese race must have been taken as a revenge against the Japanese people and also as a thorough-going actions for the purpose to drive all the Japanese influences away. These measures were indeed a violation of the "General of the Army Douglas MacArthur's Instruction to his Commands concerning the Basic Purposes of the Allied Occupation of Japan and the manners in which They Are Carried Out by the Allied Forces," in which he clarified that "The civilian populations will be kept free from all unwarranted interference with their individual liberty and property rights."

The fact that a certain country of Allied Powers is still detaining an amazing number of Japanese ex-soldiers, failing to return them to their homes against the provisions of the Potsdam Declaration, is quite contrary to the instruction cited above, which is again quite incomprehensible for us.

Therefore, it is absolutely necessary and fair to state these questions in the Japanese peace treaty, and clarify their intentions.

Excellency, we are well aware what feelings other countries have toward Japan, but we do not consider that it will be advantageous for us to keep silence. As we consider

that these problems are not matters of loss and gain, but matters of principle; and as we believe that the frank expression of our views will dispel the doubts of other countries, we have expressed our candid observations as above. We firmly believe that Your Excellency would be good enough to render assistance to us on the principle of justice and fairness.

We beg you, Excellency, to accept the assurance of our deepest respect.

Yours sincerely,

Shuichi Hojo
Director General

Katsumi Otaki
Vice Director General

National Federation of Repatriates Association
(a Corporate Juridical Person)
In behalf of more than two million
Japanese civilian repatriates

His Excellency
John Foster Dulles
Ambassador of the United States
of America

Office: 17 Ichibancho Kojimachi
Chiyoda-ku, Tokyo

PAPERS FOR DULLES MISSION

I BLACKBOOK OF U.S. TREATY MEMORANDA, LETTERS, ETC. FROM SEPTEMBER 1949 THROUGH MAY 1950

II INTRA-U.S. GOVERNMENTAL MEMORANDA, LETTERS, ETC. FROM MR. DULLES RETURN FROM JAPAN IN JUNE 1950 TO HIS DEPARTURE IN JANUARY 1951

Collection of documents made on June 29:

1. Notes on Korea by Mr. John Foster Dulles
2. Memorandum on Formosa by General MacArthur
3. Memorandum on Peace Treaty Problem by General MacArthur
4. Memorandum on Concept Governing Security in Postwar Japan by General MacArthur

Memorandum from Mr. Dulles describing conversation with General MacArthur on the security provisions of a treaty and enclosing item 4 above -- June 30

Draft Memorandum by Mr. Dulles on Desirability of Proceeding with a Japanese Treaty -- July 6

Summary Report of Mr. Dulles' and Mr. Allison's trip -- July 7

Memorandum from Mr. Dulles to Secretary Acheson recommending that the President be asked to decide on the question of proceeding with a treaty -- July 19

Memorandum from Mr. Dulles to Mr. Nitze on the development of military strength in Japan -- July 20

Memorandum from Mr. Kennan to Mr. Dulles on the procedures of a treaty -- July 20

Letter from Secretary Acheson to former Secretary Johnson forwarding for comment draft provisions on security for incorporation in a peace treaty -- August 1

Memorandum of Telephone Conversation between Mr. Dulles and Secretary Johnson -- August 3

Letter from General MacArthur to Senator Magnuson -- August 7

Memorandum from Mr. Dulles to Secretary Acheson outlining possible next steps with relation to a treaty -- August 11

Memorandum from Mr. Dulles to Secretary Acheson enclosing paper for submission to the NSC to prepare for discussion of a Japanese treaty at the next meeting -- August 11

Memorandum dictated by Under Secretary Webb after NSC meeting on a treaty -- August 21

Memorandum by the JCS for the Secretary of Defense commenting on draft provisions on security submitted by the State Department and on the general question of a Japanese treaty -- August 22

Memorandum from Mr. Allison to Secretary Acheson enclosing Memorandum commenting on the JCS paper -- August 24

Joint Memorandum for the President from Secretary Acheson and Secretary Johnson -- September 7

Memorandum of Conversation between Mr. Dulles and General Magruder regarding draft statement by the President on a treaty -- September 12

Letter from Secretary Johnson to Secretary Acheson on Termination of State of War with Germany -- September 12

Memorandum regarding a Japanese treaty for use of the Secretary at September Foreign Ministers Meeting -- September 12

Letter from Mr. U. A. Johnson to Mr. Sebald bringing Mr. Sebald up to date on treaty developments -- September 12

Memorandum from Mr. Dulles to Under Secretary Webb regarding proposed peace treaty announcement by the President -- September 13

Peace treaty announcement by the President -- September 14

Transcript of Mr. Dulles Press Conference -- September 15

Letter from Mr. Dulles to General MacArthur -- November 15

Record of Conversation between Mr. Dulles and the President -- November 16

Memorandum from Mr. Allison to Mr. Dulles and others regarding further steps toward a peace settlement -- December 7

Memorandum from Mr. Dulles to Secretary Acheson on further steps in connection with a peace settlement -- December 8

Letter from Secretary Acheson to Secretary Marshall enclosing for comment a memorandum setting forth State Department proposals for proceeding with a peace settlement -- December 13

Letter from Mr. Dulles to General MacArthur -- December 20

Letter from Mr. Dulles to Secretary Acheson -- January 4

Telegram from Sebald -- January 6

Letter from Secretary Acheson to Secretary Marshall enclosing proposed joint memorandum for the President and letter of instructions to Mr. Dulles

III CONVERSATIONS WITH FEC NATIONS

Philippines -- September 27
January

Netherlands -- October 13

Burma -- October 19

New Zealand -- October 19
January 4 (Letter from Mr. Dulles to Ambassador Berendsen)

France -- October 23
January

Britain -- October 10
January 12 (Mr. Dulles advising Ambassador Franks of trip to Japan)

Australia -- October 30 (Questions and answers)

China -- October 23
December 19 (Chinese response to our approach)

India -- December 21 (Indian response to our appraoch)

USSR -- September 28 (At M. Chauvel's reception)
October 17 (Malik expresses desire to talk)
October 27 (First major conversation)
November 20 (Second major conversation)
November 24 (U.S. release of 7-point statement of principles and of Soviet note of November 20)
December 28 (U.S. reply to Soviet November 20 note)
January 13 (Third major conversation in which Mr. Dulles informs Malik regarding trip to Japan)

(Indonesia) --

(Ceylon) -- December 29

IV OTHER DOCUMENTS REPORTING FEC NATIONS' ATTITUDES

Britain -- Report of Commonwealth Working Party Meeting in London in May 1949 -- submitted September 20
Department analysis of Working Party Report -- October 24
Department telegram to London re bringing Japan back into community of nations -- October 19
British note requesting comments on Working Party Report, and U.S. reply -- November 2
Telegram from Sebald reporting Dening views -- December 1
Telegram from Sebald reporting Gascoigne views -- December 29

Burma -- Despatch reporting conversation with Deputy Secretary of Burmese Foreign Office -- September 14

Philippines -- Memorandum from Mr. Hamilton summarizing Philippine views on treaty issues as revealed in the FEC -- October 12

New Zealand -- Memorandum summarizing despatch of September 25 appraising current New Zealand attitudes on treaty question -- October 19

Australia -- Memorandum of conversation between Secretary Acheson and Prime Minister Menzies -- July 29
Telegram from Sebald -- December 11
Extract from speech of Minister of Extermal Affairs before Australian House of Representatives -- November 28

(Indonesia) -- Summary of Embassy report of Indonesian treaty views -- November 30

V JAPANESE ATTITUDES

Despatch from Tokyo on The Problem of Japans Rearmament -- August 25
Some 20-30 telegrams from Sebald reporting Japanese attitudes on a treaty -- October-January

CIA study entitled Japan and the Korea Conflict -- October 10

Report of Roundtable of Japanese leaders on treaty questions -- October 19

Department research study "Japanese Public Attitudes on the Rearmament of Japan"

Jiji report of Yoshida views on rearmament -- November 30

Proceedings of Foreign Affairs Committee of Japanese House of Representatives -- December 2

Conversation with Eiji Wajima regarding Japanese attitudes on the current situation -- December 15

Department research study on "Japan's Position in the Present Crisis" -- December 15

VI TREATY DRAFTS - I

Draft security chapter for inclusion in treaty -- July

Short treaty drafts:

No. 2 -- August 7
No. 3 -- August 17
No. 4 -- August 18

Comments on short drafts by Mr. O'Gara, Mr. Fisher, Mr. Hamilton, officiers of NA, and Mr. Baker (German Affairs)

Approximately a dozen memoranda on aviation, submarine cables, reform, GARIOA indebtedness, foreign obligations and other treaty provisions

Latest treaty draft -- September 11

U.S. seven-point statement of principles -- November 24

Memorandum listing proposed revisions in September 11 draft -- December 14

Paraphrase of September 11 draft handed certain FEC countries

VII TREATY DRAFTS - II

Memorandum listing countries at war with Japan -- June 20, 1949

Participation of Korea in a Japanese Treaty -- December 12, 1949

Despatch enclosing maps of Japanese submarine cables -- September 12

Long Treaty Draft -- November 2, 1949

VIII BLACK BOOK COMMENTARY ON NOVEMBER 2 LONG TREATY DRAFT

IX US-JAPAN BILATERAL MILITARY AGREEMENT

Letter from General Magruder to Mr. Rusk enclosing agreement -- October 30

Reply from Mr. Rusk to General Magruder commenting on draft agreement -- December 13

Letter from General Magruder to Mr. Rusk enclosing revised draft agreement -- December 20

Reply from Mr. Rusk to General Magruder commenting on revised draft -- January 17

Letter from Secretary Marshall to the President on pay-as-you-go

Reference documents:

Philippines Base Agreement
Leased Naval and Air Bases Agreement with the United Kingdom
Exchange of notes between the U.S. and the U.K. modifying the above -- July 1950
Excerpt on jurisdiction from Brussels Pact
British proposal for amending jurisdictional agreement with the U.S. for troops stationed in Britain

X PACIFIC PACT

Draft Memorandum for the President (not used)

Memorandum from Mr. Dulles to Mr. Jessup and others commenting on proposed draft of a Pacific Pact -- January 4

Memorandum from Mr. Emmerson to Mr. Rusk -- January 4

Memorandum from Mr. Dulles to Mr. Tate enclosing redraft of Pacific Pact embodying certain of Mr. Tate's suggestions -- January 9

Note from the Australian Embassy inquiring whether the U.S. had arrived at a position on the question of a Pacific area collective security arrangement -- January 11

U.S. reply to Australian note -- January 16

XI FISHERIES

All relevant fisheries papers, including memoranda from Dr. Chapman to Mr. Dulles and to Mr. Fisher, letter from Senator Knowland to Mr. Dulles, and proposed letter from Japanese Government to U.S. Government

XII MISCELLANEOUS

A. <u>Treaties, Speeches, etc.</u>

Sino-Soviet Treaty of Friendship and Alliance -- August 14, 1945

Japanese Constitution -- November 3, 1946

Secretary Acheson's Press Club Speech -- January 12, 1950

Mao-Stalin Treaties of February 14, 1950

Mr. Dulles speech at the American Club -- June 22, 1950

Mr. Rusk's Cleveland Speech -- September 9, 1950

Mr. Dulles UN Speeches -- October-December 1950

Uniting for Peace Resolution -- November 4, 1950

Excerpt from Bulganin's Speech of November 6, 1950

Text of Mr. Dulles proposed UN statement on Formosa -- November 14, 1950

Chou En-lai statement on U.S. seven-point statement of principles -- December 4, 1950

Communique following Truman-Attlee Meeting -- December 9, 1950

General MacArthur's New Year's Message to the Japanese people -- January 2, 1951

B. Memoranda

Collection of memoranda and studies on the Southern Kurile Islands and the Habomais -- November 25, 1949

Survey paper on Japan prepared by Mr. Dulles before his June trip to Japan

Memorandum on release by Office of Alien Property Custodian of vested Japanese funds -- July 26, 1950

Memorandum from Mr. Armstrong to Mr. Rusk analyzing Soviet's November 20 treaty note -- November 27

Briefing paper on the treaty for the President for use during Mr. Attlee's visit -- December 8

Telegram from Sebald reporting Gascoignes views on current conditions in various countries of the Far East after attending Singapore Conference and consultation in London -- December 29, 1950

Memorandum on procedures of a peace treaty for use at possible CFM meeting -- January 7

Memorandum from Mr. Emmerson to Mr. Rusk enclosing memorandum by Mr. Vedeler on conversation with a "confidential source" reporting Vishinsky's estimate of the present international situation.

Memorandum entitled Japanese Peace Settlement summarizing treaty developments from September 14, 1950 to a few days prior to Mr. Dulles' departure for Japan

C. Research Studies

"The Potsdam Ordinance and Its Relation to the Japanese Peace Treaty" -- October 18, 1949

"Diet Committee Debates on 'Renunciation of War' Clauses in the Japanese Constitution -- November 23, 1949

"The Soviet Position on a Japanese Peace Treaty" -- December 29, 1949

"The Japanese Peace Treaty in the Council of Foreign Ministers" -- January 1950

"Possibility of Japanese Alignment with the U.S. and Its Allies -- January 11, 1951

"Attitudes in Southeast Asia Toward Japan and a Japanese Peace Treaty" -- January 16, 1951

D. Reference Pamphlets

"Occupation of Japan" (Red Book)

First, Second and Third Reports by the Secretary General on the Activities of the Far Eastern Commission

North Atlantic Treaty

Charter of the United Nations

General Agreement on Tariffs and Trade

Draft Charter of the ITO

Treaties of Peace with Italy, Bulgaria, Hungary, Rumania and Finland

A Decade of American Foreign Policy, Basic Documents, 1941-49

XIII TRIP

Press releases and other papers pertaining to the Mission's purposes and personnel

May 4, 1951

Dear Mr. Ohtaki:

Thank you for your letter of April 22nd. I appreciate receiving this expression of your views.

Sincerely yours,

John Foster Dulles

Mr. Katsumi Ohtaki,
Vice Director General,
National Federation of
Repatriates Associations,
Tokyo, Japan.

Tokyo, April 22, 1951.

His Excellency John Foster Dulles,
Ambassador of the United States of America.

Dear Sir,

In behalf of repatriated Japanese civilians amounting to three million four hundred thousand, we had the honor to submit to you this February while you were staying in Tokyo the petition requesting that at the conclusion of the peace treaty our private properties abroad be returned to us from the view point of protection of private rights.

It is our greatest delight that thanks to your extraordinary efforts the peace treaty for Japan has been drafted in concrete way and, it being in form not a one-sided one as the Versailles Treaty was, the defeated Japan is being given opportunities to state her desires thereon and that a very friendly and magnanimous treaty is to be concluded for Japan from the viewpoint of international comity.

Careful reading of your address delivered at Whittier College on March 31st has made us undescribably impressed with the burning passion of yours for establishment of peace as well as the good will you entertain for us Japanese. Especially we pay our highest respects to you in that you emphasized to the effect that the peace you seek is the one of reconciliation and not the one which victors usually grant to a vanquished nation which has committed armed aggression on a large scale.

Through the United Press we were informed of the draft text of the Japanese Peace Treaty prepared by your country; by perusing each item of the text we are firmly convinced that this is the only peace treaty which we have been waiting for.

Here is, however, a problem which we regret. In Chapter VI "Claims and Property" of the draft Treaty it is provided that Japan shall waive all property

rights and interests of Japanese nationals which were within territories renounced by Japan after the war or territories administered by any of the Allied powers under trusteeship and other territories belonging to them.

Of course it is a matter of gratitude on the part of all Japanese nationals who desire the rehabilitation of their fatherland that the Allied powers recognizing the lack of the Japanese capacity of paying reparations they have clarified their intention not to impose inhumane burdens on Japan for the sake of establishment of her economic self-support.

It seems, however, to us that that no further reparations will be imposed is one thing and the waiving of all private property rights is another. Reparation being a state-versus-state issue, we firmly believe that it is a violation of the international law that the financial obligations to be shouldered by the state are covered with the private properties of its nationals.

The rule providing the waiving of property rights with no compensation means the confiscation of private properties; and we strongly fear that by such a measure the principle of respecting private property which has long been maintained by democratic countries in Europe and which is especially a tradition of your country will be demolished or that the principle of inviolability of private property recognized by international law will be utterly destroyed.

Our insistence is this that private property should be respected to the utmost, and it is our sincere desire that your favorable consideration be given so that the private properties abroad belonging to civilians be returned to us in any form.

We beg to express our heartfelt gratitude to you for the efforts continuously exercised by you day and night for conclusion of the Japanese peace treaty; and lastly let us add that we should be very happy if you would understand that we are not laying this insistance of ours simply from the narrow viewpoint of self-interest.

Yours faithfully

Katsumi Ohtaki

Katsumi Ohtaki
Vice Director General,
National Federation of
Repatriates Associations

(Security Classification)

FOREIGN SERVICE DESPATCH

694.001/8-1851

FROM: USPOLAD, Tokyo.

262
DESP. NO.

TO: THE DEPARTMENT OF STATE, WASHINGTON.

August 18, 1951.
DATE

REF: Mistel 334, August 16, 1951.

58 For Dept. Use Only	ACTION	DEPT.
	FE	DCR OLI IE UNA S/S L IC G
	REC'D AUG 27	INFO OTHER

SUBJECT: Prime Minister's Address before Eleventh Diet Session, August 16, 1951

There is transmitted herewith for the Department's information the full English-language translation of the Prime Minister's address before the special Eleventh Diet Session on August 16, 1951, concerning the Japanese peace treaty and the San Francisco conference.

Prime Minister YOSHIDA opened his speech with a general survey of his previous discussions with Ambassador DULLES and recounted in outline the steps taken by the United States which have led up to the final draft of the peace treaty and the invitation to attend the San Francisco conference.

In discussing the final text of the treaty (which the Mission made available to the Prime Minister on August 15) Mr. Yoshida emphasized several of the major provisions of the treaty, particularly the recognition of Japan's full sovereignty, the new paragraph concerning repatriation, the question of compensation, the territorial provisions, and the reparations clauses. According to Mr. Yoshida, the treaty is "conciliatory in spirit and extremely simple in form", and treats Japan throughout as an equal with no restrictions imposed upon the country's future activities. With respect to the territorial provisions, which have been the source of considerable disappointment and criticism in Japan, the Prime Minister asked the Diet to bear in mind the fact of Japan's unconditional surrender but drew attention to the provisions respecting the Ryukyu and Bonin islands which, he noted, "leave room for us to hope that subject to strategic control by the United States in the interest of international peace and security some practicable arrangements may be worked out to meet the desires of the inhabitants of these islands concerning intercourse with the homeland of Japan, nationality status of inhabitants and other matters".

The Prime Minister also discussed briefly the proposed security agreement, noting how an agreement of views was reached in his conversations with Ambassador Dulles and emphasizing the importance of avoiding a "dangerous vacuum" on withdrawal of Occupation Forces after the conclusion of peace. He further noted that the security agreement will contain a ratification clause, but that its implementation will necessitate an agreement on technical details with which he is not yet familiar.

CMSpinks:ksb
REPORTER

RESTRICTED

INFORMATION
Not to be released outside the Department in accordance with security regulations.

The Prime Minister in concluding his [illegible] paid tribute to the magnanimity of the United States in [illegible] peace treaty in the "spirit of reconciliation and [illegible] the necessity for Japan to proceed afresh with the [illegible] this country into a peaceful and democratic nation which will contribute to world peace and prosperity. Mr. Yoshida finally expressed hope that the Diet will send to San Francisco a "powerful delegation so as to demonstrate our nation's appreciation of the good will of the Allied Powers and the acceptance of the treaty by a preponderant majority of [illegible] people".

For the Political Adviser:

[signature]
Philip D. Sprouse
Acting Counselor of Mission

Enclosure:

English-language translation of Prime Minister's address.

(Check
(Copy)

Address of [illegible]
Shigeru [illegible] for the
11th Dist. [illegible]

1. Almost a year has elapsed since on September 14 last year the government of the United States officially announced its intention to speed the conclusion of peace between the Allied Powers and Japan. Thanks to the determined will of the [illegible] Government and the unremitting and ardent labors of Mr. [illegible] Dulles, Special Envoy of President Truman, an [illegible] for the signing of a Japanese peace treaty will [illegible] on the 4th of September next.

2. Shortly after its announcement mentioned above, the American Government communicated to the governments of the Powers concerned the basic principles for the proposed peace settlement and asked for their opinions. These principles, made public in the [illegible] of November, are known as the "Seven Principles for Japanese Peace". Casting aside completely the concept of a peace treaty providing [illegible] and surveillance of the vanquished, these principles [illegible] the one purpose to bring into being a treaty which imposes no restrictions on the future and limits to the minimum the necessary stipulations [illegible] disposition -- a treaty of such a character as will establish friendly and cooperative relations on a footing of equality.

3. While the American Government negotiated with other Powers, exchanging views on the seven principles, Mr. Dulles visited Japan twice, and the representatives of our Japanese [illegible] and private circles were given the opportunity to state their views. Now we should bear in mind the fact that Japan is not a party to peace negotiations. The negotiations are carried on between the Allied Powers. It is through the favor of the American Government that we were given the chance to speak our minds. But let me tell you that we were allowed to submit our opinions and our desires as freely as the circumstance permitted, and Mr. Dulles was good enough to listen attentively to what we had to say and do his utmost to meet our wishes.

As the result of these [illegible] came to discover a large area of mutual understanding and agreement between Japan and the United States on the questions of peace treaty [illegible] insure security after peace, as was made clear by the statements [illegible] the Ambassador and by our government and also by [illegible]

4. Following the return of Ambassador [illegible] and his party to the United States our government [illegible] the questions that arose from time to time with [illegible] of drafting the peace treaty. The [illegible] sent to the governments [illegible] recent, received [illegible] also a [illegible]

quite close to what Mr. Dulles had [illegible] personally. But we were told to study [illegible] and submit our observations thereon.

5. On the 16th of April Mr. Dulles [illegible] to Tokyo again. He assured us that the change of the Supreme Commander for the Allied Powers would in no way affect the policy of the American Government to speed the Japanese peace settlement, and urged us to be prepared with the study of the matters on which our government's views were wanted.

On that occasion Mr. Dulles [illegible] draft treaty he had received from the British Government [illegible] to visit London.

6. The British-American conversations were held from the 4th to the 14th of June in London. Mr. Allison [illegible] in those conversations came to Tokyo on June 16, travelling by way of Pakistan, India and Philippines. The American minister [illegible] revised edition of the British-American joint draft written in [illegible], explaining that this joint draft was one based upon the American draft and incorporating certain features of the British draft, [illegible] became a little lengthier," he said, "but technically more precise." Mr. Allison spoke of the British Government's concern over [illegible] and described the difficulties encountered in ironing out the differences over the knotty problem of Chinese representation. All in all, he gave us a convincing picture of the hard and patient work [illegible] American and British government leaders in getting the [illegible] ready for signature.

7. We were also told of the [illegible] the British authorities over the fishery question. [illegible] our government should issue a public statement similar [illegible] the letter I had written to Mr. Dulles under the date of February 7, 1951, in which the government after a cabinet meeting on July 13 issued [illegible] general declaration on fishery.

8. The British-American joint draft treaty was made public on July 19. We had it in advance. And the observations of the government on the draft were duly sent to the American Government.

9. The invitation to the San Francisco [illegible] was received on July 20. Attached thereto was a revised draft [illegible] containing technical modifications of the July 13 text of [illegible]. The invitation stated that a final draft embodying the [illegible] governments concerned would be sent around August 7. [illegible] of the time required for adjusting the views of the [illegible], it reached our government only yesterday evening, [illegible] this morning.

10. This final draft [illegible] the final character of the treaty, the amendments and additions [illegible] draft being all nominal. [illegible] which

a paragraph ... sovereignty
of the Japanese ... forces. This pro-
vision, ... restoration is
welcome, in fact it will ... matter.

Another paragraph ... calling for complete ful-
fillment of Article 9 of the ... relating to the return
of Japanese military forces. ... that meets the request
of our government ... Japanese people,
and as such it ... has been revised
in a few ... a radical
change in ... for Allied
property damage ... Under the
July 20 treaty draft ... accordance with
Japan's domestic law. Only ... will enact a suit-
able law before ... more particularly
of its Article 14.

Originally, ... place to an
annex to the ... ple and
compact as ... to paragraphs
a law. We started ... American experts.
Early in July, ... by the cabinet meet-
ing of July 13. ... Allied nation-
als, it will be ... form of their
respective governments. ... decided to
cite our cabinet decision of July ... final draft.

Finally, ... war graves
a paragraph has ... that the
Allied Powers will ... government
on arrangements ... in their
territories. I ... priate solution
to this matter of ... question of
humanity.

11. The preamble ... merely simple
in form. According ... illation"
which does not ... or disabilities
which will ... ther free nation.
"Never in ... and bitter war
applied this ... portion Japan's
war guilt ... up any provi-
sion for ... for its effectu-
ation. Japan ... posed upon
her future ...

No[illegible] ...ng spirit
of reconcil[illegible] ...l feel that Japan
is the defe[illegible] ...territorial or
economic cl[illegible] ...theless, I dare
say that the [illegible] ...ation without a
parallel in h[illegible].

Owing to the [illegible] ...Powers concerned, the
final draft is [illegible] ...American draft.
Even then, it [illegible] ...the Preamble.
Besides, the[illegible] ...Powers at war
with Japan [illegible] ...on the left side,
each may e[illegible] ...ange, or substan-
tially the same [illegible] ...ty. The Pro-
tocol, which legi[illegible] ...fects of war upon
certain private [illegible] ...of the Powers who
desire it. On [illegible] ...Japan's intention to
recognize the [illegible] ...ties and conven-
tions, to whi[illegible] ...nd also after the
conclusion [illegible] ...ties as well
as to [illegible] ...the Allied war
graves in [illegible] ...declarations.
This formula [illegible] ...on matters through
Japan's free [illegible].

12. How [illegible] ...on of special
concern to our [illegible].

In the [illegible] ...s in the
south. In this [illegible] ...unconditionally
accepted the [illegible] ...sovereignty
shall be l[illegible] ...Islands as we
determine". [illegible] ...k a change in
these terms. [illegible] ...ue to the fact
that, while [illegible] ...claim to the
territories [illegible] ...ts not speci-
fically no[illegible] ...ndition of
the Mandat[illegible] ...ures that Japan
will concur in [illegible] ...them under its
trusteeship sy[illegible] ...leave room for
us to hope th[illegible] ...States in the
interest of [illegible] ...trol arrangements
might be [illegible] ...of these
inlands [illegible] ...nationality
status of [illegible].

13. As [illegible] ...mplied
immediate[illegible] ...Treaty en-
plained [illegible] ...in my com-
ments [illegible] ...
been [illegible] ...
[illegible] ...

To repeat:

Japan, being unarmed, has no way ... ing her inherent right to self defense. Inasmuch as irresp... ...ression has not yet been driven from the world, the withdrawal ... ...upation forces upon the conclusion of peace would create a da... ...em. In order to ward off this danger, Japan as a means of ... ...inst external aggression is to request the stationing of the ... ... forces. America in accordance with this request of Jap... ... her forces in and adjacent areas of Japan.

Such is the general scheme. A... ...along this line is nearing completion now. The pact wil... ...ification clause.

For the execution of this pact it ... ...essary to draw up an agreement concerning technical details. ... have not yet come to that stage, being preoccupied with the dr... ...pact itself as well as of the peace treaty.

The six years since the war's e... ...so brief a time, have scarcely erased the wounds of the ... ...s now extinguished the war-bred sentiments of hatred, b... ...distrust. It is these ill feelings which are preventing the ... ...of world peace today.

Setting aside the United Sta... ...e bigger animosities toward Japan among many countries, e... ...e which were attacked or menaced by our armed forces during th... ...In this circumstance it is obviously a difficult task to pr... ...e peace settlement. It would be sufficient to recall the ... ...ttempts that have been made to write a peace treaty fo... ...ntris, and east European states. It might be compara... ...ll it were to impose harsh terms upon Japan. But we can r... ...e the stupendous difficulty of bringing many nations a... ...agree on such a draft treaty as we have it -- a treaty of e... ...munity founded on the spirit of reconciliation and t... ...ll never forget the labors of Mr. Dulles and the good wil... ...ican Government, who have willingly undertaken and compl... ...g of the present draft treaty, and moreover endeavored const... ...ly therein the desires and aspirations of Japan. Our thank... ...to the British Common-wealth, France and other Allies whi... ...ted with the United States. We are heartened by the fi... ...d friendships with them are still kept alive.

That we have won the good will ... ...of the United States and other free nations is in pa... ...quition of the perser-verance and diligence, ...h our people have striven during the past six years ... ... -- their recogni-tion of our success ... ...nationalism that had led us to ... ...in the direc-tion of free... ...self-support.

There is no question but that our people have put a magnificent performance. But who first saved our nation from the slough of despondency, revived hope in our hearts, and inspired us with courage and strength to embark upon the task of national reconstruction? It is General of the Army Douglas MacArthur. It is General MacArthur and his successor General Ridgway, who as Supreme Commander for the Allied Powers, have lent their influence and support toward the furtherance of the Japanese peace, by inviting the attention of the world to Japan's achievements in reconstruction and recovery, and calling for Japan's readmission into the society of nations. I desire to avail myself of this occasion to express to these illustrious benefactors of Japan our nation's profound gratitude.

While we rejoice at the prospect of Japan's reinstatement in the family of nations by conclusion of the peace treaty, this is high time, I believe, that we resolved afresh to go forward with the work of rebuilding Japan into a peaceful and democratic country and thereby contribute to world peace and world prosperity.

In some quarters of the globe there are unfortunately those who still harp on the Japan's past and of our resurgence as a menace to peace, or who entertain fears about our future economic competition. Japan, having been deprived of her overseas possessions together with their resources, and having squandered all her national wealth accumulated since the Restoration of Meiji, is in no position to threaten world peace again. Moreover, the Japanese people now from the bottom of their hearts aspire to liberty, peace and prosperity. I am convinced that the day will not be far when the world will come to grasp these patent facts and realize the needlessness of such apprehensions of Japan's future, military or economic.

The treaty after its signature at San Francisco, will be submitted to the Diet for your approval for the purpose of ratification. I am confident it will be given an overwhelming endorsement from both Houses.

For the present, I earnestly hope the Diet will send a powerful delegation so as to demonstrate our national appreciation of the good will of the Allied Powers, and the acceptance of the treaty by a preponderant majority of the people of Japan. I ask for your concurrence and cooperation.

SECRET

List of Nations at War with Japan

(Nations represented on FEC listed first)

Australia, Burma, Canada, China 1/, France, India, the Netherlands, New Zealand, Pakistan, the Philippines, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, Argentina, Bolivia, Brazil, Ceylon, Chile, Columbia 2/, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, Honduras, Indonesia, Iran, Iraq, Italy 3/, Lebanon, Liberia, Luxembourg, Mexico, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Saudi Arabia, Syria, Turkey, the Union of South Africa, Uruguay, Venezuela and Yugoslavia, hereinafter referred to as "the Allied and Associated Powers" of one part, and Japan, of the other part.

1/ It is not planned that China will sign the multilateral treaty.

2/ The British list Columbia as at war with Japan although the Department records have not shown it to have been at war. Columbia's status is being further checked.

3/ Although Italy declared war on Japan during 1945, it is not contemplated to invite it to sign the multilateral treaty.

SECRET

Japanese Peace Treaty

(Multilateral)

Date	Agenda	Responsibility
July 10	1. Complete getting assent of prospective alternate delegates: Sen. George 9:30 appointment Tuesday. Cong. Eaton.	JFD
	2. Decide on date for publication of list of delegates for all three treaties (Perhaps July 20, concurrent with date of issue of formal invitation) to Japanese Peace Conference. Note that announcement of delegates is to be made by the White House.	JFD
	3. Cable UK of prospective delegates, of intention to do so and also of the persons contemplated to be on the delegation in so far as relates to the Japanese Peace Treaty.	JMA
	4. Write to the Attorney General with reference to language on seizure of Japanese property.	JFD
	5. Write to Secretary of Commerce, transmitting draft.	JFD JMA
	6. Write Secretary of Treasury (copy to Stuart) transmitting July 3 version.	JFD
	7. Release of US to Soviet note of July 9 - Friday, 13th (?)	JFD
	8. Arrange for delivery to press on afternoon of July 11, for release 10:30 a.m. July 12. Check with Linc White on number of copies required, arrange to get them and be sure the release date is made emphatic.	RAF
	9. Copies of JPT to Ben Brown for Sens. Fulbright and Tobey, and other members of Senate Foreign Relations Comm. who do not have it, when they return.	RAF

Date		Agenda	Responsibility
July 11	10.	Meeting with House Foreign Affairs Sub-committee Wednesday, July 11 at 4:00-5:00 p.m.	JFD
	11.	Copies of JPT for each member of House Foreign Affairs Committee	JFD
	12.	Press Conference, Wednesday, July 11 at 5:15 p.m.	JFD
	13.	Set up time for VOA recording Thursday morning.	BO'D
	14.	Clear authority to state in the invitation the acceptability of this draft to Japan and its appearance by plenipotentiaries.	JMA
	15.	GER sending copies of treaty to McCloy	RAF
	16.	Check status of compensation legislation and circulate to interested powers.	JMA Metzger
	17.	Cable AMEMBASSY, Paris what France intentions and wishes are as regards the Associated States.	JMA
	18.	Wires to Missions telling them July 3 treaty text is being released July 12, 10:30 a.m. Washington DST	RAF
July 12	19.	VOA recording.	JFD
	20.	Settle problem of Japanese assets in Thailand.	JMA RAF
	21.	Determine what, if any, future approval by the President or NSC are required before invitation and presumably definitive text is circulated on July 20.	JFD DR DA
(Undetermined date)	22.	Consider and draft text of July 20 formal invitation for UK concurrance.	JFD
	23.	Nomination of delegation by President to Senate	JFD

Date		Agenda	Responsibility
(Undetermined date)	24.	Powers to delegates and alternates.	JFD
	25.	Consider position of Korea.	JFD
	26.	Consider position of Italy.	JMA "
	27.	Consider position of Chinese Nationalists.	"
	28.	Consider position of Portugal.	"
	29.	Consider and arrange to announce the advisors and staff of the U.S.Delegation.	JFD JMA
	30.	Exchange views with UK and reach provisional agreement as to what shall be done at San Francisco and then clear with the people in charge of International Conferences.	JFD JMA
	31.	Hold prompt meetings of the U.S.Delegation as soon as practical after the Senate Foreign Relations Committee returns from Europe.	JMcF BB
	32.	President at San Francisco (?),	DA

33. Official statement re U.S. interference under bilateral.

34. Advisory & Arbitration & Compulsory Judicial Machinery (possibly San Francisco)

TRILATERAL

July 10	Check Mansfield for Delegation	JFD, BB
	Arrange with Spender and Berendsen for joint communiques to be issued in lieu of treaty text if latter is not cleared.	
(Undetermined dates)	Arrange to give revised text to Foreign Relations Committee and Foreign Affairs Committee or respective Sub-committees as soon as it is cleared with the Pentagon and particularly to delegates.	
	Reduction of delegates	
	Terms of delegates	
	If there is trouble with the JCS consider meeting of Acheson, Marshall-Dulles, acting pursuant to the President's statement of April 11, 1951.	
	Clearance of text by President (?)	
	Check as to whether Trilateral should be sent to members of Armed Services Committees of Senate and House	RAF, BB
	Consider and decide on place of signing. Could this be combined by the U.S. Delegation? (See below.)	
	Hold next meetings of the J.J. Delegation as soon as practical after Senate Foreign Relations Committee returns from Europe.	
	Consider naming of Departmental advisers and staff and timing of announcement.	

BILATERAL

July 10	Write letter to Marshall asking for formal approval.		JFD
July 10-11	Clear delegation		
	(9:45 a.m.)	Russell	JFD,BB
	(10:00 a.m.)	Bridges	JFD
		Vinson	JFD,BB
		Short	JFD,BB
Undetermined date	Have provisional texts to give to Senators Russell and Bridges, and Representatives Vinson and Short who are to be asked to serve as Alternate Delegates, also copies Senators Connally and Wiley. Communicate texts to certain addies.		JFD
Undetermined date	Nomination of delegates to Senate		
	Powers of delegates		
	When approved by the President, send copies to Senate Foreign Relations, House Foreign Affairs, and both Armed Services Committees.		JFD
	Consider and determine timing of publication of bilateral, place of signing and press steps to be taken in connection with the publication of the bilateral.		
	Hold prompt meeting of the U.S. Delegation as soon as practical after the Senate Foreign Relations Committee returns from Europe.		
	Consider naming of Deputy Chief Advisors and Staff Advisors of the Department Group.		

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Done

Draft wire to U.S. Missions in countries at war with Japan instructing press release simultaneously with that in Washington

Send message to ICRC and advise UK Foreign Office thereof.
Send copies of treaty to McCloy in Germany

To be done

~~Complete arrangements for press conference~~

Get Fraleigh's report on compensation legislation with a view to circulating draft legislation, and on status of UK claims to part of the Japanese assets in Switzerland.

Circulation of July 3 draft to interested agencies of the U.S. Government (?)

Settle problem of Japanese assets in Thailand

Arrive at U.S. position on changes in treaty draft proposed by Japan, France, IOLD, and Department's Treaty Division not incorporated in July 3 draft; plan necessary coordination with UK and other concerned countries of these changes and others whibh may be received before July 20.

Maintain check on progress Dept translations of July 3 text

Steps in respect to
Congressional relations
U.S. Delegation
Tripartite Security Treaty
U.S.-Japan Bilateral
China-Japan bilateral

~~Briefing~~ of VOA on what to say following July 12 release of treaty draft.

Decide on possible steps to encourage initiation of Korea-Japan and Italy-Japan bilateral treaty negotiations.

Obtain views of interested nations on participation of Associated States in treaty. Send Cond our views thereon of treaty.

Consideration of possible need of SC action on Jul. 20 draft.

ADDITIONAL AGENDA ITEM

Speak to Mr. Allison about cabling Sebald within the next week or so to get some idea as to the number and composition of the Japanese Delegation; the number of photographers, press, etc., they will be bringing, and how they will be arriving.

JFD

7/1

AGENDA July 3, 1951

1. Circular cable to AMEMBASSIES in FEC capitals, Ceylon, Indonesia, Pusan and Tokyo, indicating revisions of June 14 draft

2. Circular cable to the above AMEMBASSIES transmitting text of covering memorandum together with statement that the blank will probably be filled in by "San Francisco" but keep confidential until released from Washington.

3. Circular cable to AMEMBASSIES in above countries, transmitting text of agreed China-Formosa statement for confidential information and background guidance of EMB to use in discussion with Foreign Office but not for formal transmittal or publication.

4. Advise AmEmbs seriatum following interview with Ambassadors here of fact that such meeting has taken place, that July 3 draft with covering memorandum has been delivered with injunction of secrecy, and that Ambassador has been advised that Foreign Office could get the July 3 text at the AMEMB in question, or the UK Embassy or High Commissioner, if this is desired to save time or expense of cabling.

5. The above AmEmbs will be advised seriatum by distinctive cable of the extent to which the point of view of the government to which he is accredited has been taken into account in the July 3 text and E B instructed to call these facts to attention of the Foreign Office.

In this cable the EmB should be advised for its background guidance that it is not anticipated that there will be any further changes in the text except on minor drafting points which obviously would not be objectionable to anyone.

S:JFDulles:o

I. JAPANESE PEACE TREATY

1. Cable to U.S. embassies of countries [illegible] we are inviting comments on our draft of [illegible] 1951.

2. Reply to Department.

3. Consider within Department further the matters left open with the U.K. Delegation, i.e.:

a. Formula for Formosa.

b. Formula for Kongo region [illegible].

c. Formula for services as reparation to occupied and damaged countries.

d. Can signature of "China" be avoided at the initial signing, leaving the formula to deal with "China" as it now is?

e. Status of Korea on initial signing.

f. Shall [illegible] make a joint proposal or basis of new agreed text?

4. Consider schedule for final wind-up with U.K. after other government comments received. Presumably this would be in London the latter part of May or the first of June, the time to be coordinated with the Australia-New Zealand treaty negotiations.

5. Consider place of signing conference.

6. Discuss further with Foreign Relations Committee, particularly in relation to:

a. China representation.

b. Korea [illegible].

c. Treatment of Formosa.

d. Trust and of Sakhalin and Kurile Islands.

e. Treatment of Kuriles.

f. Place of signing.

II. AUSTRALIA AND NEW ZEALAND SECURITY ARRANGEMENT

a. Get further views of the Pentagon as to the nature of "consultation" (see President's statement) and the views of the Joint Chiefs with reference to Articles VII and VIII of the Sanders draft.

b. Prepare for and fix date for concluding negotiations with Australia and New Zealand, presumably in Washington after Spender arrives.

c. Clear with Foreign Relations Committee.

III. U.S.-JAPAN SECURITY PACT

a. Put this in final form, taking into account the most recent views of the JCS and Japan.

b. Clear with Foreign Relations Committee.

IV. ADMINISTRATIVE AGREEMENT WITH JAPAN ON STATIONING

a. Push Pentagon on this subject with view to getting an early formulation of their views. In this connection consider whether or not some general formula cannot be found to avoid a detailed specification of all facilities which might be desired.

b. Plan for clearance with Japanese, perhaps by Allison in Tokyo. Okay?

V. U.S.-JAPANESE TRADE TREATY

a. How and when shall this be handled?

5. The above AmEmbs will be advised seriatum by distinctive cable of the extent to which the point of view of the government to which he is accredited has been taken into account in the July 3 text and E B instructed to call these facts to attention of the Foreign Office.

In this cable the EmB should be advised for its background guidance that it is not anticipated that there will be any further changes in the text except on minor drafting points which obviously would not be objectionable to anyone.

S:JFDulles:o

I. JAPANESE PEACE TREATY

1. Cable to U.S. embassies of countries [illegible] re [illegible] comments on new draft of treaty. done

2. Reply to Chinese note. done

3. Consider within Department further the matters left open with the U.K. Delegation, i.e.:

a. Formula for Formosa.

b. Formula for Kongo resin [illegible].

c. Formula for services as reparation to occupied and damaged countries.

d. Can signature of "China" be avoided at the initial signing, leaving the formula to deal with "China" as it may fit?

e. Status of force on initial signing.

f. Shall U.S.-U.K. make a joint proposal or basis of new agreed text?

4. Consider schedule for final wind-up with U.K. after other government comments received. Presumably this would be in London the latter part of May or the first of June, the time to be coordinated with the Australian-New Zealand treaty negotiations.

5. Consider place of signing ceremony.

6. Discuss further with Foreign Relations Committee, particularly in relation to:

a. China reference.

b. [illegible] clause.

c. Disposal of Formosa.

d. Japan and of Sakhalin and Kurile Islands.

e. Problem of Ryukyus.

f. Place of signing.

II. AUSTRALIA AND NEW ZEALAND [illegible]

a. Get further views of the Pentagon as to the nature of "consultation" (see President's statement) and the views of the Joint Chiefs with reference to Articles VII and VIII of the Japanese draft.

b. Prepare for and fix date for concluding negotiations with Australia and New Zealand, presumably in Washington after Spender arrives.

c. Clear with Foreign Relations Committee.

III. U.S.-JAPAN SECURITY PACT

a. Put this in final form, taking into account the most recent views of the JCS and Japan.

b. Clear with Foreign Relations Committee.

IV. ADMINISTRATIVE AGREEMENT WITH JAPAN ON HANDLING

a. Push Pentagon on this subject with view to getting an early formulation of their views. In this connection consider whether or not some general formula cannot be found to avoid a detailed specification of all facilities which might be desired.

b. Plan for clearance with Japanese, perhaps by Allison in Tokyo. When?

V. U.S.-JAPANESE [illegible] TREATY

a. How and when shall this be handled?

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FOR FOSTER DULLES

Memorandum of Conversation

November 23, 1951

Subject: Japanese Peace Treaty

Participants:	Northwestern University	Japanese Congressional Mission on Foreign Affairs	Department of State
	Kenneth Colegrove	Seiichi OMURA	William Sherman, NA
	E. B. Espenshade, Jr.	Morio SASAKI	
	Harry Harada	Toshito SATO	
	Rollin B. Posey		
	Allen S. Whiting		
	Roland Young		
	Jens Nyholm		

Copies to: FE
NA
Mr. Allison
Mr. U.A. Johnson

At the request of the members of the Japanese Congressional Mission on Foreign Affairs, I got in touch with Professor Kenneth Colegrove of the Political Science Department of Northwestern University. Professor Colegrove was kind enough to arrange a luncheon at the University Club in Evanston, Illinois with various faculty members of the University.

Prior to the luncheon, Professor Colegrove seemed particularly anxious to express his personal opinions concerning the adequacy of the Japanese peace treaty and to solicit the opinions of the Japanese Diet members. He maintained that "it was a bad treaty - very bad - and contained many mistakes" and added that he didn't know "what the Achason and Dulles were thinking of to allow it to be signed in its present form". He then proceeded to outline his views as to what the defects of the treaty were. In the first place he felt that the subject of reparations should not have been mentioned or should have been specifically excluded from Japan's post-treaty responsibilities. Secondly, all of Sakhalin, or at least half, should have been recognized as Japanese territory. The Kuriles should never have been given to the Soviet Union and there should have been no "trusteeship foolishness about Okinawa and the Ryukyus". While it was obvious that the United States would have to have an airfield and station troops on Okinawa, he felt that the territory should have been recognized as Japanese. He also felt that the treaty should have stipulated unequivocally that Japan recognize

the

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the Nationalist Government of China.

Though Professor Colegrove pressed the Japanese for their opinions on these matters they were polite and circumspect in their replies. He said that he supposed that I "couldn't express an opinion being from the State Department" and I responded that in the first place I felt that any multilateral treaty would at best be an imperfect document in the eyes of any one signatory nation but agreed with Mr. Dulles' quoted remark to the effect that 90% of it would satisfy everyone. Furthermore I felt that the territorial problems were largely academic considering the fact that Russia had possession of Sakhalin and the Kuriles. Professor Colegrove then informed the Japanese that General MacArthur held the same views as he concerning the treaty "but couldn't afford to throw a monkey wrench into the conference" by expressing them publicly. He added that he didn't want to dampen their hopes for a speedy ratification of the treaty by the U.S.Senate but that he was sure that many Congressmen whom he had talked to had the same reservations and were not likely to ratify the treaty without including certain conditions. He gave me the distinct impression that he had been canvassing Congress with an eye toward influencing as many Senators as possible to do just that.

He closed the pre-luncheon conversation on a note of ill-conceived levity by saying that "the Third World War would fix everything up, so we probably wouldn't have to worry too much about it".

At the end of the luncheon Professor Colegrove expressed the same views in a more formal speech. Mr. Chmura responded with tactful thanks but expressed no opinion. Mr. Sasaki spoke at some length expressing the hope that the southern Kurile islands be recognized as Japanese and that sovereignty of the Ryukyus rest with Japan. All of the Japanese later expressed to me some surprise at Professor Colegrove's opinions since they had been under the impression (source undetermined) that he was a "leftist".

FE:NA:WSherman:sb

Mr. Iwatate is one of the Japanese Press coming in Thurs. RESTRICTED

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: November 16, 1951

SUBJECT:

Discussion of Matters of Current Interest in Regard to Japan

PARTICIPANTS:

Mr. Ichiro IWATATE, Kyodo News Service
Mr. Johnson, FE
Mr. Farner, NA

COPIES TO:

FE
NA
CA
USPOLAD

U. S. GOVERNMENT PRINTING OFFICE 16—61120-1

Mr. Iwatate called on Mr. Johnson to state that he had recently been assigned by the Kyodo News Service to cover political, economic, diplomatic and other developments in the United States of interest to Japanese readers and that although he is nominally stationed in New York he plans to spend about 10 days of each month in Washington.

(1) Japanese trade with Communist China

Mr. Iwatate referred to recent articles in the American press expressing varying degrees of alarm regarding the possibility of Japanese trade with Communist China. He wondered whether the United States Government is similarly alarmed over this possibility. Mr. Johnson said that rather than being alarmed we are naturally interested in the subject and also concerned. He observed that the United States is one of the principal parties at interest in repelling Chinese and other communist aggression in ~~South~~ Korea and that any activity which tends to assist the Chinese in their war effort is quite understandably of concern to the United States. He said that whereas it is simple enough to proscribe trade in war material which is clearly for war use such as guns, it becomes more difficult to control trade in items which are not apparently for war use such as textiles, but which may in various ways assist the enemy by being used for military purposes, or enabling the release of

RESTRICTED

of items for military use which would otherwise go to the civilian population. He added that he would think that the Japanese Government would wish to examine this problem rather carefully from a long rather than a short-range view since Japan is now on the threshold of regaining her full sovereignty and will have to decide whom she wishes to aid, and whether she would like to see further communist aggression in Asia.

(2) Mr. Dulles' Visit to Japan

Mr. Iwatate asked what Mr. Dulles would do on his forthcoming trip to Japan. Mr. Johnson stated that Mr. Dulles is, of course, concerned with carrying through the ratification of the peace treaty by the United States and wishes to bring himself up-to-date on various developments in Japan since the signing of the treaty and will presumably examine a whole range of problems which will face Japan in the near future.

(3) Treaty Ratification

Mr. Iwatate asked whether any difficulties were to be expected in ratification of the treaty by the United States Senate. Mr. Johnson said that although no particular difficulty is anticipated it is possible that difficulties may arise if political issues develop such as might be the case if Japan were to indicate that she plans to trade with Red China once she becomes free to do so. Mr. Johnson stated that he could not predict any definite date of ratification of the treaty by the United States.

(4) Security Treaty

Mr. Iwatate stated that in general the Japanese press has recently taken the line that the security treaty with the United States presents a danger to Japan in that the Soviets may attack Japan if American forces remain in Japan after the occupation ends. Mr. Johnson observed that this problem should be examined in its historical context, namely that thus far the Soviets have not been willing to move into areas other than those which are power vacuums such as Czechoslovakia, Bulgaria and Rumania. He added that in the case of Greece they attempted to accomplish their objectives by 5th column tactics and that in the case of Korea they thought they were moving into a vacuum since United States troops had left Korea and the South Korean Government was new and weak. Thus, in the case of Japan, if Japan were left defenseless it could in the light of recent communist practices be assumed that the Soviets would move in, but they would not do so if Japan is defended until such time as she becomes able to defend herself.

(5) [illegible]

(8) Soviet Mission in Japan

Mr. Iwatate asked what the Japanese might do about Soviet representation in Japan. He observed that Soviet commercial representatives recently visited the Japanese Diet with a proposal of trade with the Soviet Union, and that the Soviet Representative had recently invited Prime Minister Yoshida to the Mission on the occasion of the celebration of the anniversary of the October Revolution. Mr. Johnson stated that Japanese relations with the Soviets is one of the problems which the Japanese Government will have to face before long and is a price Japan will have to pay in regaining sovereignty.

Mr. Iwatate commented that the Soviet Mission members apparently flout occupation authority by sending Mission members anywhere in Japan on Japanese transportation facilities, by having members visit the Japanese Diet without hindrance, and in operating vehicles on the streets of Tokyo without being subject to military police control. It was pointed out that although Soviet Mission members may on occasion have appeared to flout occupation authority they have no diplomatic standing in Japan and have frequently been reminded that they are subject to occupation and military police control measures. In any event, it was added that the Japanese Government would have that situation to control in their own way as soon as the peace treaty comes into force.

FE:NA:GWarner:sb

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: October 15, 195

SUBJECT: Visit of Japanese M.P.'s leaders

PARTICIPANTS:

Mr. Ichiro Kono, Liberal Party
Mr. Norio Hasegawa, Liberal Party
Mr. Sanjuro Arita, Socialist
Mr. Ino Ken, Liberal Party
Mr. Toshito Watanabe

JOHN FOSTER DULLES
OCT 22 1951

COPIES TO:

XXXXXX The Secretary
Mr. U. Alexis Johnson, Acting Special Assistant Secretary for Far Eastern Affairs
Mr. Willis Bumgardner, Vice Consul, Yokohama
Mr. Genio Takahara, FAO (Interpreter)

Copies to: S/S, S-S/R, Mr. Dulles, FE, SA, US (JAJ) U. S. GOVERNMENT PRINTING OFFICE 16—61120-1

The foreign members of the Foreign Affairs Committees of the upper and lower houses of the Japanese Diet paid a courtesy call on me this afternoon at 2:30 p.m. After an exchange of the usual pleasantries and a formal expression of appreciation by Mr. Kono of my role in the San Francisco Peace Conference, Mr. Hasegawa expressed the interest and concern of the Japanese over the question of the Ryukyus, Pabonai and Shikotan. In reply, I stated that Mr. Dulles and others in the Department were working on the former problem. Mr. Kono expressed the interest of the Japanese in the Administrative Agreement for the implementation of the Security Treaty and requested my views concerning the timing of negotiations between the United States and Japan of the Agreement. He specifically asked whether it was my view that the Agreement should be negotiated before ratification of the security treaty by the U. S. Senate. In reply, Mr. Johnson stated that there were many complex problems to be resolved in connection with the Agreement and that the U. S. government had not yet reached decisions on all of the questions. However, the Agreement was worked out recently on these questions in order that it would be in a position to enter into negotiations with the Japanese at the earliest possible moment and that in his personal view there was not necessarily any direct relationship between the timing of these negotiations and ratification of the Security Treaty by the U. S. Congress.

51

AJJohnson:mw
10/17/51

OFFICIAL

In reply refer
to L/E

SEP 20 1951

My dear Mr. Rubin:

Reference is made to your letter of September 18, 1951 requesting that this Department furnish to you on behalf of the International Committee of the Red Cross such information as it has or may be able to secure relating to the amount and location of Japanese external assets subject to the provisions of Article 16 of the Treaty of Peace with Japan, which was signed at San Francisco on September 8, 1951.

As you know, the International Committee of the Red Cross addressed a note of August 29, 1951 to the Governments of the United Kingdom and the United States, as the joint sponsors of the draft Treaty, relating to certain problems which may be involved in the administration of the provisions of Article 16 of the Treaty. In San Francisco there were discussions between representatives of the International Committee of the Red Cross and of the United Kingdom and United States delegations relating to the matters raised in the note of August 29 of the ICRC. On September 7, 1951 Mr. Younger, United Kingdom delegate, and Mr. Dulles addressed letters to the President of the International Committee of the Red Cross in identical terms, stating, among other things, that the Governments of the United Kingdom and the United States would circulate copies of the August 29th note and of other correspondence which had been received from the International Committee to the countries principally

interested

Mr. Seymour J. Rubin,
Landis, Cohen, Rubin,
Schwartz and Gewirtz,
1882 Jefferson Place, N.W.,
Washington, D. C.

interested in Article 16 of the Treaty, together with a draft reply note jointly prepared by representatives of the United States and the United Kingdom delegations indicating some differences as to certain points covered in the August 29th note. Those letters also indicated the willingness of the United States and the United Kingdom to cooperate with respect to providing the International Committee with information regarding those Japanese assets which were covered by the provisions of Article 16.

The Department has been and is continuing to gather information with respect to these assets.

At an appropriate time the Department will be prepared to provide such information as it possesses in a form which may be transmitted regarding those Japanese assets which are covered by the provisions of Article 16.

Sincerely yours,

For the Secretary of State:

Stanley I. Metzger
Deputy Assistant Legal Adviser

L:L/E:SIMetzger:blm
10/4/51

cc: A (Mr. Freleigh) C (Mr. Allison)

SECRET

Mr. Robertson 72

Subject: Economic Problems of the Japanese-United States Relations Which May be Raised by Prime Minister Yoshida, Finance Minister Ikeda, and Governor of the Bank of Japan, Ichamada.

1. Visit to Washington by Ikeda and Ichamada

Background:

The Japanese have indicated a strong desire that Ikeda and Ichamada come to Washington and New York after San Francisco to discuss Japanese financial problems. They have been told that they may well attend the meetings of the International Monetary Fund and International Bank if they desire, an invitation to Japan to send observers having been extended, and that they will be courteously received by the United States Government; but that there has been no preparation which would make it possible to engage in serious discussions of policy questions with United States officials at that time. However, it has also been suggested that there might be some danger in coming to Washington if expectations are aroused in Japan which might not be fulfilled. Whether Ikeda and Ichamada come to Washington will depend upon what they are told at San Francisco. Yoshida has indicated that he cannot spare Ikeda during the forthcoming Diet session and that a visit immediately after San Francisco would be the only available and convenient time.

Recommendation:

A visit by Ikeda and Ichamada should be discouraged by a frank statement that the United States is not prepared to discuss the major financial questions outstanding with Japan. If they nevertheless strongly desire to come, they should be informed that they will be courteously received and so far as possible opportunity for interviews with leading United States officials, in which they can at least state their views, will be accorded. If feasible, opportunity should be given at San Francisco for them to state their views on the outstanding questions to State Department representatives.

2. Financial Arrangements for the Maintenance of United States Forces in Japan.

Background:

The financial provision of the administrative agreement with respect to the status of United States forces in Japan is extremely important, both to the Japanese internal budgetary position and her foreign exchange position. In tentative discussions on the subject with Yoshida early this year, it was indicated that the Japanese might be asked to furnish

certain

certain facilities which by United States estimate would amount to 20 to 30 percent of the local currency costs. The Department of State has proposed that the actual arrangement should involve a Japanese contribution of facilities and services which will approximate 50 percent of the local currency costs, the arrangement to remain in force until a new arrangement is made, but to be reviewed in the light of any changes in such factors as Japanese foreign exchange position and her expenditures for her own forces. This arrangement has not formally been approved by Defense or Treasury, but no objection has been offered. Agreement on a United States position awaits agreement on the administrative agreement as a whole, and on the strength of U. S. forces to be maintained in Japan.

Recommendation:

Comment to the Japanese at this time should be limited to an indication that the lines of the tentative discussion are not regarded as altogether applicable, since examination of the United States arrangements with European countries, on which the tentative discussion was predicated, indicates there is no true parallel.

3. Repayment of GARIOA Indebtedness

Background:

The Department of State proposed that United States claims against Japan in the aggregate amount of $1.8 billion should be written down to approximately 10 percent and funded over a period of 35 years. The Department has since indicated that this percentage should probably be raised somewhat to avoid a disparity with the German settlement, which is also under consideration, and considers that a lump sum settlement of from two to three hundred million funded over a period is appropriate. The Defense Department does not concur and considers that the GARIOA obligation should be kept open as a bargaining lever in connection with total United States military and economic arrangements with Japan. The latter has been considered twice within the last ten days by the Staff Committee of the National Advisory Council, but there is no consensus of opinion. It is possible that the NAC agencies will either keep the matter under advisement for some time or recommend a deferment of a definite settlement until a later date, perhaps until mutual defense arrangements are worked out.

Yoshida has recently told General Ridgway that the Japanese desire to repay all GARIOA advances.

Recommendation

Recommendation:

If it is necessary to discuss the matter, the Japanese should be told that no United States decision has been reached on how to handle the GARIOA obligation. The Japanese should be invited to express their informal views on the matter, with specific reference to Yoshida's statement.

4. Repayment of Japanese Pre-War External Obligations

Background:

The Japanese are undertaking in Article 18 of the treaty to enter into negotiations at an early date with holders of pre-war foreign currency bonds. The Japanese have indicated an eagerness to commence such negotiations. They appreciate that it probably will be necessary first to clarify their obligations on GARIOA. Although no formal position has been approved, United States agencies are of the opinion that Japan should not make any immediate payment on principal, but should make arrangements to refund the obligations in full, possibly with some scale-down of accrued interest, adjustment of interest rates, and extension of maturities.

Recommendation:

The Japanese should be informed that the United States Government will not press them to proceed with negotiations with the bondholders until the United States is in position to discuss other outstanding financial questions. If, for any reason, it is not possible to discuss the terms of GARIOA repayment in the near future, the United States Government will be glad to consider whether discussions with bondholders can nevertheless proceed and to consider the general principles for such negotiation.

5. Loans by Export-Import Bank

Background:

The Japanese have evinced a strong interest in Eximbank loans for power development and to assist the Japanese in turn to extend credits in connection with sales of capital goods to South and Southeast Asia. A basic study of Japan's position as a possible borrower is now under way in the NAC at the instance of the Eximbank. It is uncertain whether Japan can make a good case for substantial loans of these types at this time, but the examination of the question in the United States Government is still in its early stages. Until the NAC action is completed, the

Eximbank

Eximbank has been reluctant to make any statement in respect to entertaining Japanese applications. The case of short-term cotton credits in the current crop year is an exception, since a general statement has been made that such applications will be entertained and there is no obstacle to a Japanese application. The Japanese have been told that they cannot expect an advance opinion, but that if they desire to apply for a loan of this type they should proceed accordingly. It would be difficult for the Eximbank to refuse an application for a cotton loan and it may be that one or more loans of this type can lessen the pressure for other types of loans which it would be more difficult to approve.

Recommendation:

The Japanese should be told, if it appears appropriate, that there is as yet no United States policy decision on loans to Japan, in particular power loans and loans to assist Japanese credits to other countries. There is nothing to prevent them from making an application for a cotton credit if they desire. This should, of course, in this stage be coordinated with GHQ, SCAP.

6. Wilson Committee

Background:

At the instance of the MSA Director, Mr. Wilson, an inter-departmental committee chairmaned by MSA and consisting of State, Defense and ECA has been formed to consider Japanese contribution to the defense effort of the United States and other free countries and the expansion of the productive resources of South and Southeast Asia with special reference to their role as suppliers to Japan. This Committee received considerable publicity. Thus far the Committee has had one meeting, at which it requested that working groups examine the Japanese need for shipping and problems related to Japanese iron and steel production. Mr. Wilson has also taken up a number of particular problems with Defense such as the expansion of Japanese aluminum production to help alleviate United States shortages.

Recommendation:

The Japanese, if they desire to discuss it, should be told that the Wilson Committee represents no new steps in United States policy, but simply is a mechanism for coordinating the views of the interested U.S. agencies. They should be informed that it is expected to deal with ad hoc problems and is not expected to lay out a blueprint for the Japanese economy or for its "integration" with the United States economy.

7. Japanese

7. Japanese Budget for Fiscal Year Commencing April 1, 1952

Background:

Finance Minister Ikeda may have discussion with Joseph M. Dodge, who is a member of the Peace Treaty Delegation, on the Japanese budget which must be drawn up this fall. CIA, SCAP has asked both Mr. Dodge and Washington agencies to avoid any expressions of opinion on the Japanese budget without the benefit of analysis by the Headquarters. The Japanese may be somewhat sensitive on the extent to which this budget, drawn up after the signing of the peace treaty for the period which will presumably be entirely or in large part after the treaty is effective, should be subjected to GHQ, SCAP control. Mr. Dodge has been invited to return to Japan this fall to advise on the budget but has not yet stated whether he will go.

Recommendation:

Comment on the Japanese budget should be avoided. The problem of the extent of SCAP control should be discussed in due course with Defense and SCAP in the light of any comments which the Japanese may make. Mr. Dodge's discussion should be regarded as in his role as financial advisor to SCAP rather than as a member of the Peace Treaty Delegation.

8. Modifications of Reform Legislation in Japan

Background:

The Japanese have been engaged with the sanction of General Ridgway in a scrutiny of legislation enacted under the occupation to determine what measures they desire to modify. Proposals have been made to the GHQ, SCAP involving drastic modifications of anti-monopoly legislation, which would make it possible for the Japanese to reorganize trade associations and would give approval to restrictive practices which are contrary to policies which the United States has been urging upon many governments. SCAP has stated that there is no urgency about these changes and that the Japanese apparently desire to obtain U.S. approval in order to obtain U.S. sanction for departure from measures supported by the occupation.

Recommendation:

If occasion arises, Yoshida should be informed that although the United States recognizes the Japanese right, when the treaty of peace is effective, to determine what modifications to make in legislation enacted

under the

under the occupation, the United States views with concern the drastic nature of the proposals which have been submitted. The U. S. believes that restrictive practices of the order which the Japanese appear to contemplate would not be in their interest, both as a matter of domestic policy and in relation to the probable reaction of other governments.

9. Trade with China

Background:

The Japanese Government appears to take a realistic view of Japanese trade relations with China in the present period and to appreciate that under the resolutions of the United Nations and in accordance with the policies of the United States and other free countries it will probably be necessary to control such trade for some time to come. There is considerable interest in the subject in Japan, however, and the Japanese may raise the possibility of some softening of the policy.

Recommendation:

The Japanese should be told that an agreement upon an armistice in Korea would not materially alter the present policy of restricting exports of strategic items to Communist China. The United States appreciates that trade with China is of great potential importance to Japan and hopes that war tensions may be alleviated to a point where such trade can be substantially revived. Under present circumstances, however, it would be misleading to suggest that this represents a realistic possibility in the near future. This Government is mindful of the desirability of a full discussion of trade controls with the Japanese before the coming into effect of the peace treaty.

FE:NA:NHemmendinger:ajn:emb
8/30/51

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: August 29, 1951

FROM : NA - Mr. Fearey

SUBJECT: Former POW's and Civilian Internees

I called Mrs. Correll who said that there was no such thing as a POW or civilian internee camp run by the ICRC. All the ICRC was able to do in the Far East was occasionally to get supplies through to the camps, which were all run by the Japanese. The ICRC did not get its people into Japan until the summer of 1945, when the war was all but over. Consequently when Mr. Moody called her yesterday Mrs. Correll had to inform him that she did not know what the Netherlands had in mind in speaking of internees held in camps under the control of the ICRC.

Mr. Moody was nevertheless interested in getting all the information she had as to the numbers of POW: and civilian internees held by the Japanese. Mrs. Correll told him that she would endeavor to obtain from the Army the number of American POW's and civilian internees but that she knew that the United States did not have the figures for other nationalities.

If the Netherlands has given us a piece of paper indicating just what they have in mind, it may be that Mrs. Correll could be more helpful.

FE:NA:RAFearey:re

UNITED NATIONS

GENERAL ASSEMBLY

GENERAL

A/1749
18 December 1950

ORIGINAL: ENGLISH

Fifth session
Agenda item 67

MEASURES FOR THE PEACEFUL SOLUTION OF THE PROBLEM OF PRISONERS OF WAR

Resolution adopted by the General Assembly at its 325th plenary meeting on 14 December 1950

(adopted on the report of the Third Committee (A/1690))

The General Assembly,

Mindful that one of the principal Purposes of the United Nations is to achieve international co-operation in solving international problems of a humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all,

Considering that the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations,

Believing that all prisoners having originally come within the control of the Allied Powers as a consequence of the Second World War should either have been repatriated long since or have been otherwise accounted for,

Recalling that this is required both by recognized standards of international conduct and the Geneva Convention of 1949 for the protection of war victims, and by specific agreements between the Allied Powers,

1. Expresses its concern at the information presented to it tending to show that large numbers of prisoners taken in the course of the Second World War have neither been repatriated, nor otherwise accounted for;

2. Calls upon all Governments still having control of such persons to act in conformity with the recognized standards of international conduct and with the above-mentioned international agreements and conventions which require that, upon the cessation of active hostilities, all prisoners should, with the least possible delay, be given an unrestricted opportunity of repatriation and, to that end, to publish and transmit to the Secretary-General before 30 April 1951:

/(a) The names

(a) The names of such prisoners still held by them, the reasons for which they are still detained and the places in which they are detained;

(b) The names of prisoners who have died while under their control as well as the date and cause of death, and the manner and place of burial in each case;

3. Requests the Secretary-General to establish an Ad Hoc Commission composed of three qualified and impartial persons chosen by the International Red Cross or failing that, by the Secretary-General himself, with a view to settling the question of the prisoners of war in a purely humanitarian spirit and on terms acceptable to all the Governments concerned. The Commission shall convene at a suitable date after 30 April 1951 to examine and evaluate, in the light of the information made available to the fifth session of the General Assembly, the information furnished by Governments in accordance with the terms of the preceding paragraph. In the event that the Commission considers that this information is inadequate or affords reasonable ground for believing that prisoners coming within the custody or control of any foreign Government as a consequence of military operations of the Second World War have not been repatriated or otherwise accounted for, the General Assembly:

(a) Requests the Commission to seek from the Governments or authorities concerned full information regarding such prisoners;

(b) Requests the Commission to assist all Governments and authorities who so desire in arranging for and facilitating the repatriation of such prisoners;

(c) Authorizes the Commission to use the good offices of any qualified and impartial person or organization whom it considers might contribute to the repatriation or accounting for of such prisoners;

(d) Urges all Governments and authorities concerned to co-operate fully with the Commission, to supply all necessary information and to grant right of access to their respective countries and to areas in which such prisoners are detained;

(e) Requests the Secretary-General to furnish the Commission with the staff and facilities necessary for the effective accomplishment of its task;

4. Urgently requests all the Governments to make the greatest possible efforts, based in particular on the documentation to be provided, to search for prisoners

/of war

of war whose absence has been reported and who might be in their territories;

5. Directs the Commission to report as soon as practicable the results of its work to the Secretary-General for transmission to the Members of the United Nations.

---

5 - Nov - 19[illegible]

COPY

L/C - Mr. Wehmeyer
L/T - Mr. Foley

August 28, 1951

NA - Mr. Hemmendinger

Negotiation of an Agreement for the Establishment of Commissions to Decide Disputes Arising Under Article 15 (a) of the Peace Treaty with Japan.

Reference is made to my memorandum of August 6, 1951 on this subject. As a consequence of the receipt of further comments from both L/C and L/T, and also of the receipt of a communication, dated August 24 from the Canadian Embassy enclosing a proposed revision of the draft agreement, a new draft has been prepared, a copy of which is attached.

It is planned that copies of the draft agreement shall be taken out to San Francisco in the event any questions are raised outside of the business of the conference. The draft agreement will not be formally considered at the conference. It is requested, therefore, that you advise NA of any comments concerning the draft as soon as possible.

Enclosures:

Draft Agreement for the Settlement of Disputes Arising Under Article 1 (a) of the Peace Treaty.

cc: S - Mr. Allison, FA - Mr. Penfield

FE:NA:CAFraleigh:ajn

COPY

Draft Agreement for the Settlement of Disputes Arising Under Article 15 (a) of the Peace Treaty

The Governments of the parties to the Treaty of Peace with Japan, signed at San Francisco on September , 1951, desiring to establish procedures for the settlement of disputes concerning the interpretation and execution of Article 15 (a) of the Treaty have agreed as follows:

(1) In a case where a claim for compensation has been submitted by the Government of an Allied Power to the Japanese Government pursuant to the provisions of Article 15 (a) of the Treaty, or pursuant to legislation enacted by the Japanese Government to fulfill the obligations expressed in the said Article, the Japanese Government agrees to advise the Allied Government of its action on such claim within eighteen months from the date of the submission of the claim. In the event that the Government of an Allied Power gives notice to the Japanese Government that it is not satisfied with the disposition of a claim for compensation, or with the disposition of an application for the return of property, rights, or interests submitted to the Japanese Government pursuant to the provisions of Article 15 (a) or implementing legislation, the claim or application shall be referred for final determination to a Commission appointed as hereinafter provided.

(2) A commission for the purposes of this Agreement shall be appointed upon request in writing made by the government of an Allied Power to Japan, and shall be composed of three members; one appointed by the Allied Government, one appointed by the Japanese Government, and the third appointed by mutual agreement of the two governments. In the event that the Japanese Government fails to appoint a member within a period of sixty days from the date of the

request,

request, or in the event that the two governments fail to agree on the appointment of a third member, the government of the Allied Power may request the President of the International Court of Justice to appoint such member or members. Any vacancy which may occur in the membership of the Commission shall be filled in the same manner as in the case of an original appointment.

(3) The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted as binding and final by the Allied Government and Japan.

(4) Each government shall pay the remuneration of the member appointed by it. In the event that the Japanese government fails to appoint a member, it shall pay the remuneration of the member appointed on its behalf. The remuneration of the third member of a Commission and the expenses of a Commission shall be borne equally by the Allied Government and the Japanese Government.

(5) This agreement shall be open for signature by Japan and by the government of any state which is a party to the Treaty.

(6) This agreement shall be deposited in the archives of the Government of the United States of America, which shall furnish each signatory government with a certified copy thereof.

CONFIDENTIAL

Verbatim Text

CERTAIN AMERICAN DIPLOMATIC OFFICERS - PRIORITY

FOL changes in July 20 JAP treaty draft and accompanying documents (being July 3 draft as amen ded in accordance DEPCIRTEL 57, July 18) SHLD be IMMED communicated your BRIT colleague with whom you SHLD prepare in agreement revised text Treaty, two Declarations and Protocol for prompt joint communication to FONMIN as being final text referred to second para July 20 invitation San Francisco Conference. If reply invitation not yet RECD request prompt and, if possible, favorable reply, pointing out early response important from standpoint physical arrangements for conference anticipated magnitude. Text, with unofficial corrected translation if practicable, SHLD be given local press soonest FOL scheduled similtaneous release Was hington and London 4:00 p.m. EST AUG 15. FONOFF instructing BRIT Missions correspondingly. Changes are:

Delete date

Delete "Draft" in title.

Delete "Preamble"

Change period to colon at end of preamble

Art 1: Delete "hereby". Delete comma after "concerned". Add as second para "(b) The Allied Powers recognize the full sovereignty of the JAP people over JAP and its territorial waters." Insert "(a)" beginning first para.

Art 2(f): Revise to read "JAP renounces all right, title and claim to the Spratly Islands and to the Paracel Islands."

Art 3: Delete comma after "legislation"

Art 4: Insert "Subject to the provisions of para (b) of this ART," beginning para (a). Change "Articles 2 and 3" to "Article 2" in two places. Substitute "such areas" for "the areas referred to above". Insert new para (b) reading:

"(b) JAP

"(b) JAP recognizes the validity of dispositions of property of JAP and JAP nationals made by or pursuant to directives of the US Military GOVT in any of the areas referred to in ARTS 2 and 3." Reletter last para "(c)".

Art 5: Use initial cap in "State" two places

Art 6: Place commas before and after "however". Insert new para (b) reading:

"(b) The provisions of Art 9 of the Potsdam Proclamation of J July 26, 1945, dealing with the return of JAP military forces to their homes, to the extent not already completed, will be carried out."

Reletter last para "(c)"

Art 7: Insert "or conventions" after "treaties" two places first sentence and "and conventions" after "treaties" second and third sentences. Insert "or convention" after "treaty" para (b).

Art 8: Substitute "it" for "she" para (b). Substitute semicolon for comma after "May 17, 1930" and after "Settlements" first time that word appears para (c). Insert "first" before "coming into force".

Art 11: Insert "to" before "reduce" and before "parole"

Art 12: Insert "first" before "coming into force" opening clause para (b). Insert "(tangible and intangible)" after "rights to property" subpara (ii). In para (e) delete "para (b) of" and substitute "this Article" for "that paragraph"

Art 13: In para (b) insert "from the first coming into force of the present Treaty," after "four years" and substitute "date of such coming into force" for "time of coming into force of the present Treaty". Insert "will" before "give" second time that word appears para (c)

Art 14: Substitute FOL for opening para:

"(a) It is recognized that Japan SHLD pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resounces of Japan are not presen tly sufficient, if it is to maintain a viable

economy,

economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

"Therefore,"

In first sentence subpara 1 delete after "available" and substitute "the services of the JAP people in production, salvaging and other work for the Allied Powers in question."

Insert "Subject to the provisions of sub-para (II) below," at beginning sub-para 2(I).

Delete "which on the coming into force of the present Treaty were subject to its jurisdiction, except:" and substitute FOL:

"which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this sub-para shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, which belonged to, or were held or managed on behalf of, any of the persons or entities mentioned in (a), (b) or (c) above at the time such assets came under the controls of such authorities.

"(II) The following shall be excepted from the right specified in sub-para (I) above:"

Substitute "natural persons" for "nationals" first line sub-para (i). Delete after "Japan" that subpara and substitute "except property subjected to restrictions during the war and not released from such restrictions as of the date of the first coming into force of the present Treaty;"

Delete sub-para (iv) and substitute FOL:

"(iv) property, rights and interests which have come within its jurisdiction in consequence of the resumption of trade and financial relations after SEPT 2, 1945, between the country concerned and JAP, except such as have resulted from transactions contrary to the laws of the Allied Power concerned;"

Renumber sub-paras II, III and IV to be III, IV and V respectively.

In renumbered sub-para IV delete "JAP property referred to" and substitute

"property

"property as provided in sub-para (I)". Delete "JAP" before "owner".

Art 15: In para (a) insert "between Japan and the Allied Power concerned," after "Treaty" near beginning para. Delete "the owner" in third sentence and substitute "or on behalf of the owner or by his GOVT". Delete after "injury" in fourth sentence and substitute "or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the JAP Cabinet on July 13, 1951."

In sub-para (ii) delete comma after "Treaty" and insert "between Japan and the Allied Power concerned"

Delete Note.

Art 16: Insert "to appropriate national agencies," after "resultant fund". In "Art 14(a)2(I)(ii) through (v)" change"(I)" to "(II)". Change period to comma and second sentence and add "as well as assets of JAP natural persons not residents of Japan on the first coming into force of the Treaty."

Delete Note.

Art 17: In para (b) insert "between Japan and the Allied Power concerned" after "Treaty" where that word first appears. Delete "and the coming into force of the present Treaty" after "1941," and substitute "and such coming into force,"

Art 18: In para (b) substitute "encourage" for "facilitate" and "other" for "private".

Art 19: Change period end para (b) to comma and add "but does not include JAP claims specifically recognized in the laws of any Allied Power enacted since SEPT 2, 1945." Add at end para (c) "Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty." Add new para (d) reading:

"(d) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by JAP law at that time, and will take no action subjecting Allied nationals

to

to civil or criminal liability arising out of such acts or omissions."

Art 21: Insert "4," between "2," and "9"

Art 22: Insert "reference to a special claims tribunal or by" after "not settled by"

Art 23: In para (a) substitute square brackets for parentheses.

Art 24: Delete after "deposit" and substitute ", of the date of the coming into force of the Treaty under paragraph (a) of ART 23, and of any notifications made under paragraph (b) of ART 23."

Art 25: Delete after "Japan" in first sentence and substitute ", or any State which previously formed a part of the territory of a State named in ART 23, provided that in each case the State concerned has signed and ratified the Treaty."

Art 26: In first sentence insert "or with any State which previously formed a part of the territory of a State named in ART 23," after "at war with Japan". Insert "first" before "coming into force"

Art 27: Delete after "thereof"

Insert "the city of San Francisco" in first blank. Insert "[if the Soviet Union is signatory]" after "Russian"

First Declaration: In para 1 insert "first" before "coming into force".

In para 2 delete after "within" and substitute "the shortest practicable time, not to exceed one year from the first coming into force of the Treaty of Peace:" In sub-para (1) delete comma after "conventions". Revise sub-para (6) to read:

"(6) Agreement of Madrid of April 14, 1891, for the Prevention of False Indications of Origin of Goods, as revised at Washington on June 2, 1911, at The Hague on December 6, 1925, and at London on June 2, 1934;"

Insert "on" before "June" in sub-para (8)

In

In para 3 insert "first" before "coming into force". Delete after "Meteorological Organization" and substitute "opened for signature at Washington on October 11, 1947."

Second Declaration: Add new third para reading:

"Japan trusts that the Allied Powers will enter into discussions with the JAP GOVT with a view to arrangements being made for the maintenance of any JAP war graves or cemeteries which may exist in the territories of the Allied Powers and which it is desired to preserve."

Protocol: In para A1 change "part X" to "part I" and "ART 18" to "ARTS 15 and 18"

Delete period end para B1 and add:

", provided that in respect of such coupons or securities the period shall begin to run again on the date when money becomes available for payments to the holder of the coupon or security."

In first sub-para of para D4 insert ~~xxxxxxxxxxxx~~ ", unless the reinsurance contract otherwise provides" after "shall"

Insert as new para, headed "L. LIFE INSURANCE CONTRACTS", the FOL:

"Where an insurance has been transferred during the war from the original to another insurer or has been wholly re-insured, the transfer of re-insurance shall, if effected at the instance of the JAP administrative or legislative authorities, be recognized, and the liability of the original insurer shall be deemed to have ceased as from the date of the transfer of re-insurance."

Reletter heading next para to read: "F. SPECIAL PROVISION"

Insert FOL as new second para under "FINAL ARTICLE":

"The present Protocol shall be deposited in the archives of the Government of the United States of America which shall furnish each signatory State with a certified copy thereof."

Complete formal clause as follows:

"IN FAITH WHEREOF the undersigned plenipotentiaries have signed the present Protocol.

"Done

"Done at the city of San Francisco this _____ day of _____ 1951, in the English, French, Russian /if the Soviet Union is signatory/ and Spanish languages, all being equally authentic, and in the JAP language."

Five copies final English texts Treaty, Declarations and Protocol airpouched AUG 13 for verification purposes, of which three SHLD be furnished FONMIN. Copies also being provided Missions here. Revised translations will be airpouched ~~xxxxxx~~ later this week.

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USPOLAD (TOPAD) TOKYO

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FE:NA:RAFearey:re
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DEPT CONFIDENTIAL 78 8/11/51

USPOLAD, TOKYO - PRIORITY — 235 Jpt-General

TOPAD

REPEAD FROM DULLES

UK 255 AUG 4. PLS communicate POL to Yoshida.

QTE I have carefully considered your letter of AUG 4, 1951 with reference to the fate of JAP still unrepatriated or unaccounted for in the SOV Union and COMMIE China. I am happy to inform you that in the final text of Treaty now being composed we hope to incorporate in ART 9 requirement that the provisions of ART 9 of the Potsdam Proclamation of JLy 26, 1945 with reference to the return of JAP MIL forces to their homes to the extent not already completed will be carried out. Since the status of civilian detainees has not been dealt with in any of the surrender terms it did not seem practical to deal with this problem in the Treaty of Peace but we believe that a provision as indicated above will put Japan in a position to negotiate with reference this whole problem if the SOV Union were to propose to conclude a bilateral treaty under ART 26. I do not understand that there is any question of an ART 26 Treaty with COMMIE China UNQTE

St:John Foster Dulles J.F.Dulles
8/11/51

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DEPARTMENT OF STATE

Memorandum of Conversation

DATE: August 10, 1951

SUBJECT: OAP Letter of July 9 on Draft Japanese Bill Revalidating Certain Foreign Currency Bonds.

PARTICIPANTS:

Mr. Sydney Gross, OAP
Mrs. Mayte F. Greene, NA
Mr. C. Arnold Fraleigh, NA

COPIES TO:

NA - Mr. Hemmendinger

1—1403

I called Mr Gross to explain our reactions to the request in the OAP's letter of July 9 to Mr. Hemmendinger that certain requests be made of the Japanese Minister of Finance to clarify provisions of the draft Japanese bill revalidating certain foreign currency bonds, a copy of which was enclosed with despatch No. 1655 of May 26, 1951 from USPOLAD, Tokyo.

We stated, first, that there appeared to be no need to insert in the draft bill a provision that bonds owned by U. S. corporations be revalidated since Item (3) of Article 1 of the draft bill would provide for their revalidation. Item (3) covers all foreign currency bonds of which the conversion was not agreed by owners, or to which the owners' consent could not be presumed. OAP thought that there might be some instances in which the Japanese Government considered that Japanese stock holders of the U. S. corporation could consent on behalf of the corporation to the conversion of foreign currency bonds into yen bonds. Mr. Gross knew of no particular case. We said we thought it unlikely that the Japanese Government would consider that Japanese stock holders could act in behalf of the U. S. corporation in consenting to the conversion of bonds but that if any case arose in which the Japanese Government took such a position, we would support the OAP in maintaining that such bonds should be revalidated.

In the course

In the course of our discussion Mr. Cross indicated that OAP had received a revised draft of the draft bill, which apparently had been brought back from Japan by Mr. Schlesinger. In the later draft, there had been inserted at the end of the first sentence of Item (3) of Article 1 the phrase "(including corporations established under foreign laws)."

With respect to the OAP request for clarification as to the application of the second sentence of Article 1, Paragraph 3 of the draft bill to other items of Article 1, we stated that there appeared to be no need for clarification, and the OAP agreed to withdraw its request.

Finally we talked to the OAP about the meaning of the language in Article 1 referring to "punching, crossing out of stated matters or other actions for nullifying the bonds." We stated it was our understanding that Article 1 of the draft bill described what the Japanese Government intended to do about bonds which had not been destroyed or marked in such a way by the Japanese Government that they could not be used again. With respect to such bonds the Japanese Government merely declares that they were revalidated. This article applies to most of the bonds in which the OAP is interested since the Japanese Government never got its hands on the bonds vested by the OAP.

Article 6 of the draft bill states what the Japanese Government will do with respect to bonds which it has destroyed or marked in such a way that they cannot be used again. With respect to such bonds the Japanese Government will purchase new bonds of the same description and value and deliver them to the former owners. Under Article 6, the Japanese Government agrees to buy new bonds in any case where conversion of the bonds into yen obligations was not agreed to by the owners--unless consent of the owners could be presumed because they were Japanese nationals. The OAP mentioned one case in which a U. S. corporation had pledged bonds with a branch of the Japanese bank in California, and the bonds had been transmitted to Japan where they were destroyed by the Japanese Government. We said that it would appear that the Japanese Government is obliged under Article 6 of the draft law to purchase new bonds since the owner did not agree to the conversion of the bonds. The OAP letter of July 9 was written before this revised draft had been received. The revision mentioned, the OAP admitted, would go far toward removing any necessity for revising the Law to take care of U. S. corporations.

It was agreed that as a consequence of the conversation no reply would be sent to the OAP's letter of July 9, 1951.

FE:NA:CAFraleigh:ajn

CONFIDENTIAL

DEPARTMENT OF STATE

COPY FOR MR. ALLISON

Memorandum of Conversation

DATE: August 10, 1951

SUBJECT:

Article 16 of the Draft Japanese Peace Treaty

PARTICIPANTS:

Daniel F. Cleary, Chairman, War Claims Commission
Stanley D. Metzger, L/E

COPIES TO:

S - Mr. Dulles
S - Mr. Allison
NA - Mr. Hemmendinger
NA - Mr. Fearey

1-1493

In a letter dated August 3, 1951, Mr. Cleary requested a conference to discuss questions relating to Article 16 of the Japanese Peace Treaty and the work of the War Claims Commission in adjudicating and paying out of vested enemy assets of the United States certain indemnities to American prisoners of war. I called Mr. Cleary at the request of Mr. Dulles to find out more particularly what he had in mind and to answer any questions that he might have, thereby avoiding the necessity of having continued conferences.

Mr. Cleary wanted to know whether the United States would get any of the Japanese assets in neutral and ex-enemy countries, and if so, whether they would come to the Government or be given to an institution such as the American Red Cross. The background of Article 16 was explained to Mr. Cleary. It was stated that many countries which had fought Japan had very few Japanese enemy assets within their jurisdiction which they could retain and devote to their own purposes under Article 14 of the Treaty.

Many of these countries, such as the Netherlands, New Zealand, etc., could not take advantage of whatever benefits might ensue from Article 14(a) (1) of the Treaty, since they were not occupied. Those who were occupied would in all likelihood receive a minimum of reparations in relation to their claims. This policy of limiting reparations as much as possible was an objective of the United States policy consistent with our national security.

Since, however, so few reparations were being provided, many of the countries would find it very difficult to make payments to prisoners of war who had been badly treated. As a consequence, it had been decided to assist so far as possible prisoners of war of such countries by having Japan transfer its assets in neutral and ex-enemy countries, or the equivalent, to the International Committee of the Red Cross for distribution on such basis as it may determine to be equitable. In view of the fact that the United States had already indemnified prisoners of war out of substantial enemy assets in the United States, whereas other countries had very limited amounts of such assets, the United States has presumed that this would be a factor which the International Committee of the Red Cross would take into account when it comes to distributing the funds on an "equitable" basis. As a result, Mr. Cleary was informed that the United States had never expected that American prisoners of war would receive distribution from this fund, which will be of a very limited total amount. Under these circumstances, the question who would receive such assets as would be distributed for American prisoners of war was quite academic. It was explained that generally, after the IGRC had determined an equitable basis for distribution, the Governments would indicate which national agency, government or private, was appropriate to receive funds from the International Committee.

Mr. Cleary was appreciative of the information conveyed, stated that he was leaving town shortly, and that his General Counsel, Mr. Hyman, might inquire concerning this matter further at a later time.

L:L/E:SDMetzger:blm

CONFIDENTIAL COPY FOR MR. DULLES

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: August 10, 1951

SUBJECT: Article 16 of the Draft Japanese Peace Treaty

PARTICIPANTS:

Daniel F. Cleary, Chairman, War Claims Commission
Stanley D. Metzger, L/S

COPIES TO:

S - Mr. Dulles
S - Mr. Allison
NA - Mr. Hemmendinger
NA - Mr. Fearey

1—1493

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L:L/E:SDMetzger:blm

WAR CLAIMS COMMISSION

WASHINGTON 25, D. C.

August 3, 1951

The Honorable
The Secretary of State
Department of State
Washington 25, D. C.

My dear Mr. Secretary:

I have the honor to address you relative to the Draft Japanese Peace Treaty, dated July 11, 1951, and numbered 61, with particular reference to Article 16 of that draft.

Article 16, if approved, would provide for the transfer by Japan of certain of its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or the equivalent of such assets to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund for the benefit of former prisoners of war and their families on such basis as it may determine would be equitable.

The categories of assets described in Article 14 (a) 2 (I) (ii) through (v) of the present Draft Treaty shall be excepted from transfer under Article 16 and certain other exceptions are made.

The assets contemplated in Article 16 appear to be defined in Article 14 (a) (2) (I), which would provide that each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of (a) Japan and of Japanese nationals; (b) persons acting for or on behalf of Japan or Japanese nationals; and (c) entities owned or controlled by Japan or Japanese nationals. Disregarding for the moment the possible conflict between the provisions of Article 16 and Article 14 (a) (2) (I), attention is invited to the program of vesting enemy assets conducted by the

United States under the authority of the Trading With the Enemy Act of October 6, 1917, as amended. The War Claims Commission is not fully advised as to actions along this line of Allied Powers, but suggest that similar programs have been conducted by the Allied Powers. While this is a matter primarily for consideration of the Office of Alien Property, Department of Justice, which is charged with the administration of the Trading With the Enemy Act of October 6, 1917, as amended, the War Claims Commission has a responsibility in this connection, as will be made clear hereinafter.

The Congress of the United States has recognized that members of the Armed Forces of the United States who were taken prisoner by the enemy and who suffered undue hardships and indignities were entitled to special consideration. Among other functions, the War Claims Commission is charged with the administration of the provisions of United States laws relating to the relief of prisoners of war.

More specifically, section 6 of the War Claims Act of 1948, as amended (Public Law 896, 81st Congress, July 3, 1950, 64 Stat. 1260; 50 U.S.C. App. Supp. 2001 et seq.), provides for the payment of compensation to members of the Armed Forces of the United States, including members of the Army of the Commonwealth of the Philippines, who were called into the service of the United States, who were held as prisoners of war during World War II. Compensation is authorized to be paid at the rate of $1 for each day that a prisoner of war was held on which the enemy government or its agencies failed to furnish such prisoner the quantity or quality of food to which he was entitled as a prisoner of war under the terms of Article 11 of the Geneva Convention of 1929. It appears that section 6 of the War Claims Act and Article 16 of the Draft Japanese Treaty have their origin in the same thought, namely, that members of the armed forces taken prisoner by the enemy are entitled to some form of indemnity for the indignities inflicted upon them in violation of international covenants.

Funds for the payment and administration of claims approved pursuant to the provisions of the War Claims Act of 1948, as amended, are drawn from the War Claims Fund. This is a fund established pursuant to the provision of section 13 of the War Claims Act and is derived from the net proceeds remaining upon the completion of administration, liquidation, and disposition of enemy assets vested by the United States pursuant to the Trading With the Enemy Act of 1917, as amended.

The War Claims Commission is not advised that any other Allied nation has taken similar steps to afford a remedy to members of its armed forces who were held as prisoners of war during World War II.

It appears clear that highly important issues may arise should Article 16 of the Draft Japanese Peace Treaty be approved in its present form, and that a conflict of interest might arise between members of the United States Armed Forces who were held as prisoners of war and members of the armed forces of allies similarly held, unless the matter is clarified before the final signing of the Treaty.

In view of the foregoing and other matters not gone into due to the urgency of this matter, and since the Commission fully appreciates the importance of concluding successfully a Treaty with Japan in the very near future, it is respectfully suggested that a conference be arranged between representatives of the Department of State and of this Commission to explore the subject in more detail and that such conference be expedited.

With assurances of the Commission's desire to cooperate to the fullest in this matter, I am

Sincerely,

Daniel F. Cleary
Chairman, War Claims Commission

DEPARTMENT OF STATE

Memorandum of Conversation

DATE: August 10, 1951

Telephone

SUBJECT:

Shipping Provisions for Japanese Treaty

PARTICIPANTS:

Mr. Pennington - Pacific Far East Lines
Mr. - Mr. Allison

COPIES TO:

FE
S - Mr. Allison
NA
TEC

U. S. GOVERNMENT PRINTING OFFICE 16—61120-1

Mr. Pennington called me on the telephone from San Francisco today in connection with the Japanese peace treaty. He inquired if there were any articles dealing with shipping, in line with his belief that a understanding should be reached with the Japanese regarding competitive practices before the treaty was signed. He spoke of the fact that in a meeting two or three days ago with the president of the Japanese shipping association in San Francisco he and his associates were disturbed by the former's expression of rather ambitious plans for the expansion of Japanese ocean-going tonnage. He also said that they on the West Coast had understood through East Coast shipping associates that originally it had been intended to establish some sort of a mission to discuss shipping matters with the Japanese and that he was disturbed now by information that this was no longer contemplated.

I told Mr. Pennington that there were no provisions of the treaty specifically devoted to shipping and that as he knew it was intended there should be no economic limitations upon Japan. I also explained to Mr. Pennington the late stage at which the draft treaty stood and rather discouraged him from his offer to write Mr. Dulles at length and with documentation on this subject. I told Mr. Pennington that I would check into the matter and call him back, which I did after talking to Mr. Allison. I confirmed that apart from the statement in the preamble regarding fair trade practices and the references in Article 12 to maritime relations,

there

there is no specific reference to shipping matters. I also passed on to him Mr. Allison's offer to discuss this subject at greater length with him if he so desired next week.

FH:LH Merchant:eve

DEPARTMENT OF STATE

Memorandum of Conversation

81a

DATE:
August 9, 1951

SUBJECT:
Japanese Labor Problems

PARTICIPANTS:
Mr. Yasuji Nagata, Chief of the Employment Section, Ministry of Labor
Mr. Hiroshi Kawai, Deputy Director, Employment Security Bureau, Public Employment Security Office
Mr. Kuzuo Sakamura, Chief of the Apprentice Section, Ministry of Labor
Mr. Saburo Noguchi, Chief of the Safety Section, Ministry of Labor

COPIES TO:
XXXXXXXXX
Mr. Swearingen, LTF
Mr. Overton, FE
Mr. Feer, FE
Mr. Sullivan, FE
Mr. Lory, FE
[illegible], interpreter

~~COPIES TO: [illegible], HA, SWW~~

U. S. GOVERNMENT PRINTING OFFICE 16—61120-1

The first part of the conference was devoted to Mr. Overton's remarks regarding the basic objectives of United States foreign policy.

Mr. Sullivan inquired concerning the attitude of the Japanese people toward the forthcoming peace conference and stated that Socialist party followed the Communist line and opposes this peace conference as it favors an over-all conference. Mr. Nomoto, Mr. Kawasaki and Mr. Noguchi replied that the Japanese people favored the forthcoming peace conference and that they could not understand why the Socialists opposed it. Mr. Sullivan remarked that this stand by the Socialists was splitting the labor movement in Japan.

Mr. Swearingen asked if revisions of labor standards laws were under consideration. Mr. Noguchi stated there were no plans to revise any of their essential features. Mr. Sullivan pointed out that changes were possible especially in regard to women labor standards that concerned lengthening the work week and abolishing restrictions on night work. He then commented on the possibility of having a general strike law similar to General MacArthur's order of July 1948, and that even though there was a general strike law it might be used to prohibit a union from calling a strike for legitimate economic reasons. Mr. Sullivan also pointed out that labor standards should not lower labor standards for if this occurred it would create unfavorable reactions among the international labor organizations. Mr. Nomoto replied by stating that since Japan was about to join the ILO she would want to raise standards to their present level.

In answer to Mr. Lory's question regarding the amount of unemployment Mr. Nomoto replied that there were 240,000 receiving unemployment insurance - a decrease of over the previous year. He said 6,000,000 were covered by this type of insurance

Mr. Kerner inquired if it would be difficult to maintain the gains labor has made under the occupation. Mr. Nomoto said that personally he did not think that the strength of unions would decrease after the occupation had ended.

Mr. Sullivan then contrasted the relations between the Japanese Labor Ministry and the unions with the relations between the United States Department of Labor and American unions. He said that the Japanese Labor Ministry [illegible] part of the Japanese Government and did not represent the interests of the unions whereas in the U.S. the Labor Department speaks for the interests of the unions. Mr. Sullivan closed his remarks by saying that he hoped that the Japanese delegation would carefully this practice when they were making their observations in the Labor Department.

This occurred [illegible]

[illegible]ory:elh

Suggested provisions regarding reservations for inclusion in Treaty of Peace with Japan:

(1) No reservation in the present Treaty shall be made at the time of signature thereof. Any subsequent reservations shall be subject to approval by all the states parties to the Treaty at the time it first enters into force under the provisions of Article 23 thereof. In the absence of such approval the state making a reservation shall not be considered a party to the present Treaty.

Alternative

(2) No reservations to the present Treaty shall be made at the time of signature. Any subsequent reservations shall be subject to approval by two-thirds of the states parties thereto at the time the treaty first comes into force under the provisions of Article 23. In the absence of such approval the state making a reservation shall not be considered a party to the present Treaty.

Draft
S:JFDulles:mb
8/9/51

Article 14(a).

It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore, 1. Japan will promptly enter into negotiations with Allied Powers so desiring whose present territories were occupied by Japanese forces damaged by Japan for the purpose of concluding agreements for making available reparation by means such as making available the services of the Japanese people and production, sovereignty and other work or act of the Allied Powers in question. Such agreements shall determine the commencement and period of time for making such reparations available and such other terms as may be appropriate; provided, however, that in any agreements to make reparations, where the manufacturing of raw

materials is called for, they should be supplied by the Allied Powers in question, and such agreements shall avoid the imposition of additional liabilities on other Allied Powers.

Article 14 (a)

2. (I) Subject to the provisions of paragraph (II) below each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interest of

(a) Japan and Japanese nationals,

(b) persons acting for or on behalf of Japan or Japanese nationals, and

(c) entities owned or controlled by Japan or Japanese nationals

which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interest specified in this paragraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, or which were held or managed on behalf of any of the persons or entities mentioned in (a), (b) or (c) above at the time such assets came under the controls of such authorities.

(II) The following shall be excepted from the right specified in the foregoing paragraph:

(i) Property of Japanese persons who during the war resided with the permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected during that period to measures not generally applied by the Government of the territory where the property was situated to the property of other Japanese nationals resident in such territory;

(ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;

(iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(iv) property, rights and interests which have come within its jurisdiction in consequence of resumption of trade and financial relations after September 2, 1945, between the country concerned and Japan except in the case of any rights resulting from transactions contrary to the laws of the Allied Power concerned;

(v) obligations of Japan or Japanese nationals, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof; provided that this exception shall only apply to obligations of Japan and its nationals expressed in Japanese currency.

Article 14 (b) - Substitute for the present text the following text, based on the Italian Peace Treaty:

"The Allied Powers declare that the rights attributed to them under this Article and Articles 15 and 16 cover all their claims and those of their nationals for loss or damage due to acts of war, attributable to Japan including claims of the Allied Powers for direct military cost of the occupation."

Add As New Paragraph (d) in Article 19

(d) Japan recognizes the validity of all acts and omissions done during the period of occupation under or in consequence of directives of the occupation authorities or authorized by Japanese law at that time, and will take no action subjecting Allied nationals to civil or criminal liability arising out of such acts or omissions.

Second Draft
S:JFDulles:mb:o
8/9/51

Add to Article 6 a new paragraph (b) and renumber the present (b) to (c):

"(b) The provisions of Article 9 of the Potsdam Proclamation of July 26, 1945, dealing with the return of Japanese military forces to their homes, to the extent not already completed, will be carried out."

ARTICLE 14 (a)

It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore, 1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, for the purpose of concluding agreements for reparation by means such as making available the services of the Japanese people in production, salvaging and other work for account of the Allied Powers in question. Such agreements shall determine the commencement and period of time for making such reparations available and such other terms as may be appropriate; provided, however, that in any agreements to make reparations, where the manufacturing of raw materials is called for, they should be supplied by the Allied Powers in question, and such agreements shall avoid the imposition of additional liabilities on other Allied Powers.

Draft-J.F.Dulles
August 9, 1951

August 7, 1951
Treaty Changes

Preamble -- (Pakistan) Explain that it is the present intention of the Allied Powers, as far as we know, to support Japan's application to the United Nations, but that we do not think it appropriate to undertake any commitment in the matter since, under the Charter of the United Nations, each country is obligated to exercise independent judgment on applications in the light of the facts as they exist at the time the application is made.

Article 1-- (France) Agree to delete word "whereby" from this Article.

(Indonesia) Replace "The Allied Powers recognize the full sovereignty of the Japanese people over Japan and its territorial waters".

(Pakistan, Indonesia, and informally India) Reletter and make separate paragraphs (a) and (b) of this Article.

Article 2 --(Korea)- Two questions raised by Korea 1) want "renunciation as of August 9, 1945" - agree we cannot do this. 2) Dokdo and Perangdo Islands- cable sent to Muccio for information

2(f) -FRANCE- Agree to French proposal that clause will read "Japan renounces all rights, title and claim to the Spratly Islands and to the Paracel Islands".

Article 3 --(Pakistan) Pakistan urges that there be no renunciation of sovereignty and it can be pointed out that Article 3 does not renounce sovereignty. The question of the future administration will presumably be dealt with by the contemplated trusteeship agreement, the terms of which have not yet been formulated.

Article 4 -- Strike out "and 3" in the first and second sentences, and make "Articles" singular.

4 (a) Make read "Subject to the provisions of paragraph (b) of this Article", and change the letter "t" in the word "the" to lower case, and add the following new paragraph (b)

(b) "Japan recognizes the validity of dispositions of property of Japan and Japanese nationals made by or pursuant to directives of United States Military Government in any of the areas referred to in Articles 2 and 3".

Present (b) will become (c)

Article 5 -- No comments

Article 6 -- India -- We will explain to India why the second sentence must remain -- we originally did not have clause ending occupation but put it in because India wanted one- second sentence necessary to keep our troops there, rather than removing and replacing them later. (JFD to cable Amb.Henderson to make clear that it is voluntary basis)

Article 7 -- (Netherlands)

7 (a) In the first sentence, after the word "treaty" add "or convention" and in the second and third sentences, after the word "treaties" add "and conventions".

7 (b) After word "treaty" add "or convention".

Article 8 -- (Belgium) Mr. Allison has discussed their suggestion, and it has been withdrawn.

Agreed that Canadian suggestion re "first" coming into force not applicable here.

Article 9 -- (Australia, Netherlands, Korea)

Point out to the Australians and Netherlands that the situation is at least provisionally covered by the exchange of letters between Yoshida and Dulles, and the subsequent Cabinet announcement of July 13, 1951.

Point out to the Koreans that the so-called MacArthur line will presumably stand until the

"and conventions".

7 (b) After word "treaty" add "or convention".

Article 8 -- (Belgium) Mr. Allison has discussed their suggestion, and it has been withdrawn.

Agreed that Canadian suggestion re "first" coming into force not applicable here.

Article 9 -- (Australia, Netherlands, Korea)

Point out to the Australians and Netherlands that the situation is at least provisionally covered by the exchange of letters between Yoshida and Dulles, and the subsequent Cabinet announcement of July 13, 1951.

Point out to the Koreans that the so-called MacArthur line will presumably stand until the Treaty comes into force, and in view of the fact that Korea is given the benefit of Article 9,

/this will

Article 9 (continued) this will afford the Koreans an opportunity to attempt to work out a fishing agreement with the Japanese.

Article 10 -- No comments

Article 11 -- No comments

Article 12 -- (France) Point out to France that any Allied Power that wants to can operate as though there was no mention of "MFN" treatment, and that this is entirely optional to each Allied Power. If the French want to have the right to MFN treatment without obligation of reciprocity this would not be acceptable to the sponsoring powers.

12 (b) (Canada) Before the words "coming into force" insert the word "first".

12 (e) (UK) To meet the UK viewpoint strike out the words "Paragraph (b) of" and later strike out "that paragraph" and substitute "this Article".

12 (b) (1) (ii)- To meet views of U.S. Libary of Congress, after words "rights of property" add "(tangible and intangible)".

Article 13 (b) -- (Canada) After the words "four years" add "from the first coming into force of the present Treaty", and after the words "time of" add "such first", and after the word "first" strike out "of the present Treaty".

Article 14 -- JFD explained possible change in language of (a) to meet Philippine objections, and UK proposal "according to its laws" withdrawn.

(Canada)
" 14-(a) 2 (I) Before the words "coming into force" add "first".

(Canada, France and Latin American countries)
14-(a) 2 (I)(i)--In the first line, strike out "nationals" 14 (II) and substitute "persons". (Broadening the language to meet the French and Latin American suggestions is agreed to in principle, subject to studying the language, the subsequent articles (III) and (IV) to be renumbered (IV) and (V)

/ The French

Article 14 (continued) The French suggestion about diplomatic property is, we think, measurably covered by Article 14 (a)(2) (II) which means that if prior to the coming into force of the Treaty, diplomatic property has been liquidated then the restitution or return of the proceeds is a matter to be dealt with with the Japanese Government.

" 14(a)(2)(iv) (France) To meet the French suggestion, strike out the words "property, /or rights arising after" and substitute "property, rights and interests which have come within its jurisdiction in consequence of".

Insert after "financial relations" the words "subsequent to September 2, 1945" and strike out the subsequent words "before the coming into force of the present Treaty".

" 14 (a)(2)(v) (UK) The retention of the phrase "obligations of Japan or Japanese nations" is subject to further consideration (UK to get further instructions)

Article 14 (continued)

14 (b) Possible revision of this is awaiting word from the Netherlands (May substitute wording from Italian Treaty, or use Mr. Fitzmaurice's suggestion: "waive all reparations claims and other claims arising out of any actions taken by Japan and its nationals".

Article 15 (a) In the first sentence after the words "present Treaty" insert the words "between Japan and the Allied Power concerned".

To meet French suggestion, in next to last sentence of (a), after the word "owner" insert "or his Government".

Add "as a result of the war" after word "damage".

In the next to last sentence of (a) strike out everything after "made" and substitute "on terms not less favorable than provided in draft Law No._____, approved by the Japanese Cabinet on July 13, 1951.

" 15 (c)(ii)- After "present treaty" insert "between Japan and the Allied Power concerned".

Article 16 -- In the first sentence after the words "resultant fund" add "to appropriate national agencies". (Canada) At the end of the second sentence add "as well as assets of Japanese nationals who are not residents of Japan at the first coming into force of the Treaty." This is to meet the Canadian suggestion and our own views.

Article 17 (b) -- After the words "present Treaty" where they first appear insert "between Japan and the Allied Power concerned".

Before the words "coming into force where they appear the second time strike out "the" and substitute "such", and following the words "coming into force" strike out the words "of the present Treaty".

Article 18 (b) - (French) Strike out the word "private" and substitute "other". This to meet the French point that as now drafted the text does not include municipal obligations.

18 (b) Substitute the word "facilitate" where it first occurs with the word "encourage". This to meet the French desire for something more positive.

Article 19 (a) -- A new sentence to be worked out by Mr. Fitzmaurice and Mr. Metzger dealing with civil contracts and liabilities under the occupation, or this could be a new paragraph at the end of Article 19.

19 (b) (US) At the end delete the period and add "but does not include Japanese claims specifically recognized in the laws of any Allied Power enacted since September 1, 1945".

Article 19 (c)-- (UK) At the end add a new sentence reading "Such renunciation shall not prejudice actions taken in accordance with Articles 16 and 20 of the present Treaty".

Article 20 -- No comments

Article 21 -- No comments

Article 22 -- After the words "settled by" include "reference to a special claims tribunal or". This to meet the Netherlands and Canadian points of view.

Article 23 -- No comments

Article 24 -- No comments

Article 25 - (UK) After the words "war with Japan" delete "which have signed and ratified it" and substitute "or any state which previously formed a part of the territory of a state named in Article 23, provided that in each case the state concerned has signed and ratified this Treaty".

Article 26 -- After "war with Japan" insert "or with any state which previously formed a part of the territory of a state named in Article 23".

Before the words "coming into force" insert the word "first".

In the Final enacting clause, after the word "Russian" insert "(if the Soviet Union is signatory)".

First Declaration, Paragraph 1 -- Before the words "coming into force" add "first".

First Declaration, Paragraph 2 -- Substitute for "six months of" the words "the shortest practicable time not to exceed one year from", and before the words "coming into force" insert "first".

First Declaration, Paragraph 2 (6) -- (UK) Delete present wording and substitute "Agreement of Madrid of April 14, 1891, for the Prevention of False Indications of Origin on Goods, Revised at Washington on June 2, 1911, at The Hague on November 6, 1925, and at London on June 2, 1934."

First Declaration, Paragraph 3 -- Before the words "coming into force" insert "first".

Second Declaration -- (UK) Add the following paragraph:

"Japan trusts that the Allied Powers will enter into discussions with the Japanese Government with a view to arrangements being made for the maintenance of any Japanese war graves or cemeteries which may exist in the territories of the Allied Powers and which it is desired to preserve."

CONFIDENTIAL

DEPARTMENT OF STATE

ASSISTANT SECRETARY

(CA - 2N)
1489

August 7, 1951

S--Mr. Dulles

Subject: Japanese Suggestion of Allied Declaration Concerning Repatriation of Prisoners of War

I do not see any objection to our making a declaration of the type suggested by the Japanese Government. The language of the suggested declaration consists, as you know, of the general provisions of General Assembly resolution 427(V) of December 14, 1950. The only change I would suggest is that an express reference be made at some point in the declaration to the General Assembly resolution and to the fact that the United Nations is attempting to deal with the matter. I do not think that it would in any way weaken the effect of the declaration as a statement of the continuing concern of the Allied Powers over the problem of unrepatriated Japanese nationals, no matter what the outcome of the United Nations consideration of the problem may be. Accordingly, if the suggested language of the declaration is to be used, I suggest an insertion of a clause after the third recital and just before the first numbered paragraph, as follows:

"Recalling that the General Assembly of the United Nations has initiated an international inquiry into this serious problem,

"1. Reaffirm our intention, etc."

This has been cleared in substance with the other offices concerned.

John D. Hickerson

cc: DS:Mrs. Correll
EUR:Mr. Allen
NA: Mr. Overton

See: Deptel 235-8/11/51
(answers this + 255 fr Tokyo)

CONFIDENTIAL

By S. M. Allison
Research

L/C - Mr. Shaner
L/T - Mr. Foley

August 7, 1951

NA - Mr. Fraleigh

Agreement for the Establishment of Commissions to Decide Disputes Under Article 15 (a) of the Japanese Peace Treaty.

At our meeting on August 7 it was agreed that I should prepare a new draft of a multilateral agreement for the settlement of disputes under Article 15 (a). Attached is the new draft for your consideration. It is my understanding that L/T will let me know what should be put on the end of the agreement to provide for signatures, accession, etc., and will also let me know whether, in the opinion of L/T, the agreement would have to be ratified by the Senate. It is my feeling that since the agreement really provides a procedure for carrying out the terms of the peace treaty, it would not be necessary to present the agreement to the Senate for ratification.

Attachment:

Agreement for the Settlement of Disputes Concerning Article 15 (a) of the Peace Treaty.

cc: NA - Mr. Hemmendinger
S - Mr. Allison
NA - Mr. Fearey

FE:NA:CAFraleigh:ajn

Agreement for the Settlement of Disputes

Concerning Article 15 (a) of the Peace Treaty

The governments of the parties to the Treaty of Peace with Japan signed at San Francisco on September , 1951, desiring to establish procedures for the settlement of disputes concerning Article 15 (a) of the Treaty have agreed as follows:

1. Disputes between the government of each Allied Power and Japan concerning the interpretation and execution of Article 15 (a) of the Treaty of Peace with Japan, and legislation enacted by the Japanese Government pursuant to Article 15 (a) shall be referred for final determination to a commission composed of three members, one appointed by the Allied Government, one appointed by the Japanese Government, and the third appointed by mutual agreement of the two governments. In the event that either government fails to appoint a member, or that the two governments cannot agree on the appointment of a third member, such member or members shall be appointed by the President of the International Court of Justice. Any vacancy which may occur in themembership of the commission shall be filled in the same manner as in the case of the original appointment.

2. Each government shall pay the salary of the member appointed by it. The salary of the third member of the commission and the expenses of the commission shall be borne equally by the Allied Government and the Japanese Government.

3. The decision of a majority of the members of the commission shall be the decision of the commission, and should be accepted by the parties as binding and final.

4. The Japanese Government shall advise the Allied Government of its action on each claim within eighteen months from the date of the submission of the

claim

claim to the Japanese Government. If the claimant is not satisfied with the action taken by the Japanese Government, he may submit his claim to the commission for final decision.

5. Any Allied Power which is a party to the Treaty of Peace signed at San Francisco on September , 1951, may become a party to this agreement.

(Provision for signatures, and for notifications of accession to this agreement will be prepared by L/T for an insertion of this draft.)

ARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : SFE - Mr. Dulles

DATE: August 8, 1951

FROM : NA - Mr. Johnson

SUBJECT: Effect in Japan of Non-Participation of Asiatic Countries in Peace Treaty

Jpt mem

I know that you fully share my belief in the great importance of obtaining the maximum South Asian participation in the Japanese treaty. However, I feel it might be well to review some of the probable effects in Japan of a failure to obtain that participation.

Despite the fact that the failure of these countries to participate would be partially offset by the strong Japanese desire to regain sovereignty and Japanese resentment over inordinate reparations demands, I am convinced that the Japanese are seriously worried about their possible isolation in Asia and can be expected eventually to resent a treaty which binds them to the West to the detriment of their position in Asia. Specifically, I believe that failure on the part of the South Asian countries to sign the Treaty may well bring about the following repercussions in Japan:

1. While most Japanese accept the fact that participation of the USSR and Communist China in the Treaty is impossible and are resigned for the time being to the continuance of the hiatus in Japan's relations with these areas, this attitude has been largely predicated on the belief that they will be able to compensate for the loss by re-establishing normal relations with South Asia. It follows that any disillusionment in this regard will greatly increase Japanese doubts as to the value of a majority treaty and strengthen the neutralist movement.

2. Aside from the obvious fact that the issue would be exploited by the communists as an example of western "imperialism", it might also be seized upon by rightists in Japan, many of whom advocate Pan-Asianism.

3. From the economic point of view, although the present volume of trade between Japan and South Asia may not diminish appreciably, it would be extremely difficult to expand trade to the extent hoped for by the Japanese.

This

SECRET

This in turn would lead to Japanese pressure, possibly amounting even to "blackmail", for additional economic assistance from the United States.

4. It would in large measure destroy the psychological advantages of the Treaty, for instead of Japan's attaining a position as an equal (though admittedly weak) sovereign nation among free nations, she would in effect be regarded in Asia as a creature of the Western nations possessing no real independence or prestige. The Japanese would sense this quickly and might well come to the conclusion that the advantages of the Treaty are largely illusory.

I believe that aside from the important economic factors involved, the political and psychological aspects of Japan's relations with the South Asian countries should not be underestimated. The failure of these countries to sign the Treaty is certain to cause disillusionment in Japan, and I believe that regardless of the realities of the situation, the United States, as the principal power concerned in the preparation of the Treaty, would bear the onus in the matter so far as the Japanese are concerned.

This does not in any way suggest any dissatisfaction with what has been done to this end up to now or that we concede any questions of principle to the South East Asian countries as a price for their participation, but only that we continue, and, if possible, increase our efforts to obtain their signature to the Treaty.

Copy to - FE
PSA
SOA

RJGM

FE:NA:DWOverton:sb

S - Mr. Allison

L/C - Mr. English
L/T - Mr. Bevans
NA - Mr. Hemmendinger

August 6, 1951

Negotiation of an Agreement for the Establishment of Separate International Commissions to Decide Disputes Concerning Article 15 (a) of the Treaty.

In a recent memorandum to the Canadian Government the U. S. advised that Government that it was considering preparing a draft agreement to provide for the establishment of commissions to settle disputes under Article 15 (a) of the peace treaty. Article 15 (a) obliges Japan to return property and also to provide compensation in accordance with designated draft legislation. The U. S. stated that the draft agreement would be drawn in such a way that it could be signed by any interested Allied government. The British have also shown concern about the arrangements for commissions to settle disputes on compensation questions, and have been assured that an agreement, or agreements to establish commissions would be negotiated separately from the peace treaty.

It is believed that the negotiation of an agreement with Japan to provide for the creation of commissions is not as urgent a matter as it was originally thought to be. Even if no agreement is negotiated before the coming into force of the peace treaty, it is believed that the Allied Powers could invoke the peace treaty provision on the settling of disputes by the International Court of Justice, for the settlement of disputes concerning the interpretation of Japanese compensation legislation. Reference of disputes on compensation matters to the International Court would be a clumsy procedure, however, and was not contemplated when the provision on settlement of disputes was inserted in the peace treaty.

Even though the negotiation of an agreement to provide machinery for settling disputes under Article 15 (a) is not urgent, it is desirable to work toward an agreement with the Japanese as soon as possible since the British and Canadians wish to be assured that such an agreement will be made.

Accordingly, it is requested that you attend a meeting on August 7, 2:00p.m. in Room 3025 to consider the terms of the proposed agreement. Attached is a preliminary draft of such an agreement which is offered as a basis for discussion.

Attachment:

Preliminary Draft of Agreement for the Settlement of Disputes Concerning Article 15 (a) of the peace treaty.

cc: S - Mr. Allison, NA - Mr. Fearey

FE:NA:CA:Rmahoney:mb

Agreement for the Settlement of
Disputes Concerning Article 15 (a) of the Peace Treaty

1. The Japanese Government and each Allied Government signatory hereto agree that disputes concerning the interpretation and execution of Article 15 (a) of the peace treaty shall be referred for final determination to a Claims Commission to be established in accordance with the terms of this agreement.

2. Each Claims Commission shall be composed of three members, one appointed by the Allied Government, one appointed by the Japanese Government, and a third appointed by mutual agreement of the two governments. In the event that the Japanese Government fails to appoint a member, or that the two governments cannot agree on the appointment of a third member, such member or members shall be appointed by the (presiding officer of the International Court of Justice, Secretary-General of the United Nations). Upon the resignation or death of a member, his successor shall be appointed in the same manner in which he has been appointed .

3. Each Government shall pay the salary of the member appointed by it. The salary of the third member of the Commission and the expenses of the Commission shall be divided equally between the Japanese Government and the Allied Government.

4. The decision of a majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as binding.

5. The name of each Commission shall refer to both the participating Allied Government, and the Japanese Government as, for example, the American-Japanese Claims Commission.

6. Any Allied Power which is a party to the Treaty of Peace signed at San Francisco on _____ may become a party to this agreement.

FE:NA:CARaleigh:ajn
8/6/51

Aug. 3 - 4:05 pm

Mr. Fearey:

Mr. Dulles just called from NY (Cold Spring Harbor) suggesting that you add something along the following line to the cable which is being sent to the Arab countries:

We can tactfully remind that when it comes to making peace with Japan it is scarcely "neutral" to put the U.S. and Soviet Union on plane of equality. The U.S. bore the great burden of winning victory through four years of desparate Pacific fighting. The Soviet Union has six days of nominal belligerency. The U.S. by common consent was given the responsibility of conducting the occupation and preparing Japan for the peace. This ~~x~~ it has done at great cost. The dollar cost alone has been two billion. Under these circumstances Soviet participation in Japanese Peace Treaty while desirable is not indispensable by any test nor could any nation properly be considered "un-neutral" if it joined

with those nations which actually won the victory and and created the conditions indispensable to making peace possible.

abs

Suggested text of statement which Japanese Government desires to be issued at San Francisco by Allied Powers in form of "voluntary declaration"

"On the occasion of signing the peace treaty with Japan,

"The Governments of the Allied Powers,

"Mindful that one of the principal purposes of the United Nations is to achieve internal cooperation in solving international problems of a humanitarian character and to promote and encourage respect for human rights and fundamental freedoms for all,

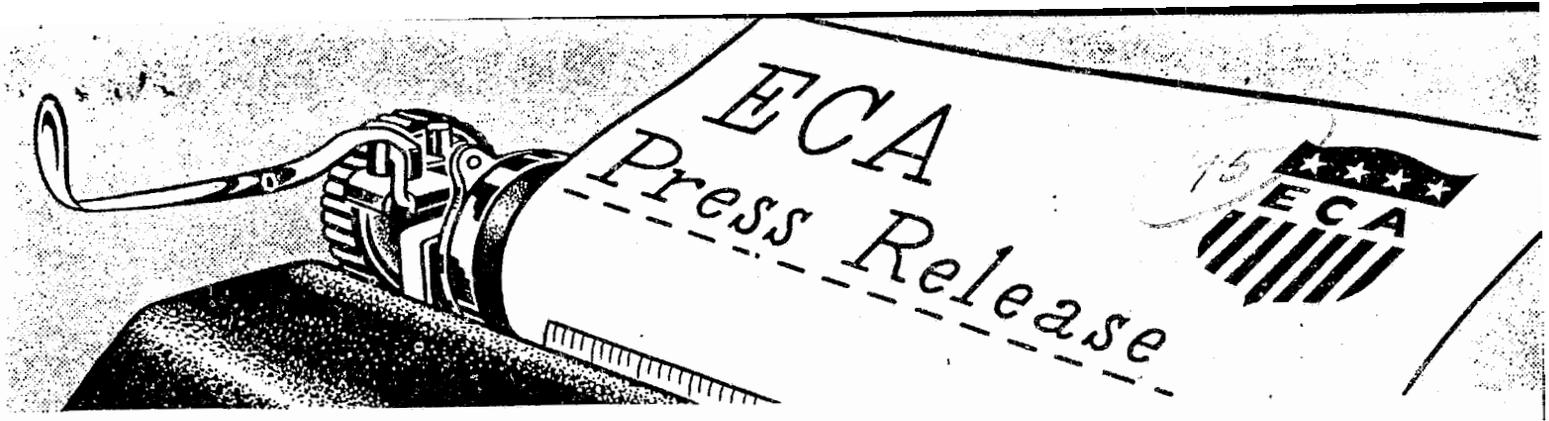
"Believing that all prisoners of war and civilian internees, placed originally under the control of the Allied Powers as a consequence of the second world war, should either have been repatriated long since or have been otherwise accounted for,

"Recalling that this is required both by recognized standards of international conduct and the Geneva Convention of 1949 for the protection of war victims, and is expressly promised in the Potsdam Declaration and stipulated under specific agreements between Allied Powers,

"1. Reaffirm our intentions to act in conformity with the recognized standards of international conduct and the above-mentioned international instruments which require, among other things, that, upon the cessation of active hostilities, all prisoners should with the least possible delay be given an unrestricted opportunity to repatriation; and,

"2. Express our concern over the fate of the Japanese nationals still left unrepatriated or unaccounted for, and declare our resolve to continue concerted effort toward the solution of the long-pending problem".

August 2, 1951



G - 2370

ADVANCE RELEASE for AM Papers of
Saturday, July 28, 1951

Boyce
Office of Information
STerling 6400, Ext. 2655
Rm. 417A, 806 Conn. Ave., N.W.

ECA TO UTILIZE INDUSTRIAL CAPACITY OF JAPAN IN ITS ASIAN AID PROGRAMS

WASHINGTON, July 27 -- Plans for fullest utilization of the industrial capacity of Japan in the operation of the American aid program in Asia were revealed today by Economic Cooperation Administrator William C. Foster.

Foster announced the establishment of an ECA field office in Tokyo with the primary role of extending the already substantial procurement from Japan of industrial commodities needed in the six Asian area countries in which ECA aid programs are operating.

At the same time, the ECA Administrator designated R. Allen Griffin, director of the ECA Far East Program Division, as ECA representative on the inter-agency committee requested by Defense Mobilizer Charles E. Wilson. The ODM-sponsored committee, including representatives of State and Defense Departments as well as ECA, will seek means to exploit the unused industrial capacity of Japan in the defense program of the free world.

As director of the ECA Field Office in Tokyo, Foster today named George Artamonoff, until recently deputy director of the Export Control Division of ECA's European office in Paris. Artamonoff is to assume his new duties upon arrival in Tokyo next week.

A temporary ECA office has been in operation in Tokyo for some time, mostly in connection with the withdrawal of the ECA mission from Korea and the turning over of that mission's functions to the United Nations Korea Reconstruction Agency. Japan does not receive aid from ECA.

Nearly one-fourth of all industrial commodities authorized for Burma, Formosa, Indochina, Indonesia, the Philippines and Thailand under the ECA program have had Japan as the source, ECA procurement authorization figures reveal.

As of May 31, the latest date for which firm figures are available, procurement authorizations for industrial commodities under ECA's Far East program amounted to $8.5 millions. Of this, $12.4 million worth have indicated Japan as the source country. In addition, more than $42 million worth of basic textiles were procured

from Japan for Indonesia when that nation was an overseas territory of The Netherlands.

Nearly $3.5 million of the goods authorized for procurement in Japan for the Far East program consisted of electrical equipment such as motors and generators, transformers, circuit breakers and high-tension equipment, and industrial equipment such as machine tools and metalworking equipment. Fishing vessels and other marine equipment, railroad transportation equipment and motor vehicles and parts have accounted for slightly over $1 million. Steel for bridges and other iron and steel mill products, nonferrous metals and chemicals have accounted for more than $4 million, and fabricated textiles (exclusive of that previously provided for Indonesia) nearly $3 million. Other miscellaneous commodities have included scientific and medical equipment and specialized manufactures.

In view of both the growing strain on materials and industrial capacity in the United States and the need for rebuilding Japan's strength as a bastion in the Pacific, procurement of industrial and agricultural goods from Japan will be stepped up through the facilities of the new ECA Field Office in Tokyo. As director of that office, Artamonoff will be responsible directly to the ECA Administrator in carrying out his functions of continued close liaison with the Supreme Command Allied Powers and with the U.S. Emergency Procurement Service in expediting U.S. procurement from Japan for ECA programs in Asia.

He will also represent the ECA Special Technical and Economic Missions (STEMS) in Asia on such matters as allocations and priorities of industrial and agricultural materials obtainable from Japan.

In announcing his appointment, Foster noted that Artamonoff has had over 20 years' experience in the field of domestic and export trade, as well as over 11 years' experience with Sears Roebuck & Co., including service as President of Sears International, Inc., from 1937 to 1942.

Serving as an officer in the Ordnance Department, U.S. Army, in North Africa, Italy and Southern France during World War II, he was Deputy Managing Director of the International Division of Radio Corporation of America from 1946 to 1947, and in 1947 and 1948 was President and Director of Drake America Corporation, New York City. Prior to joining ECA, he was a special adviser to the International Basic Economy Corporation, New York.

#########

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

SECRET

TO : S - Mr. Allison

DATE: August 2, 1951

FROM : NA - Mr. Hemmendinger

SUBJECT: Reply to British Proposal for Revision of Exception (v) of Article 14 (a) 2.

The British have proposed that all mention of obligations of Japan or Japanese nationals be stricken out of exception (v). The effect would be that Allied custodians of Japanese property could seize and sell such obligations as Japanese external assets. Under the present language of exception (v) custodians could seize and sell as Japanese external assets only obligations of Japan or Japanese nationals expressed in foreign currency.

The British base their argument for revision of exception (v) on the ground that a prohibition upon the seizure and sale by Allied custodians of Japanese bonds is not necessary "to achieve our common objective, namely, to prevent penetration of the Japanese economy." Exception (v) in our opinion was intended, not simply to prevent penetration of the Japanese economy, but to make clear that the program of each Allied Power for seizing and selling Japanese assets must stop at its own borders, and not be extended into Japan.

It has always been understood that each Allied Power is limited, in seizing and liquidating Japanese property, to property within its territory. Article 14 (a) of the treaty expresses this limitation by stating that each Allied Power shall have the right to vest property "subject to its jurisdiction". It has been the U. S. position that obligations owed by Japan and by Japanese nationals are not property subject to the jurisdiction of any Allied country. We have considered this to be true particularly in cases where an Allied custodian of enemy property has seized paper evidence of an obligation and asserts that the obligation is subject to the jurisdiction of the Allied country solely on the basis of the seizure of the paper evidence.

Exception (v), as now worded, prohibits Allied custodians from seizing and selling stock interests in Japanese corporations even though the custodians may have succeeded in getting their hands on the stock certificates themselves. Our reason for excluding share interests in Japanese corporations from vesting by Allied custodians was not primarily to prevent penetration of the Japanese economy, but to make clear that the mere presence of paper evidence of a share interest within an Allied country does not enable the Allied custodian to regard

the property

the property interest expressed in the paper as subject to the jurisdiction of the Allied government.

There has been a long history of discussion between British and American representatives on exception (v). The U. S. at London in June agreed to modify its position to the extent of permitting Allied custodians to seize and sell foreign currency obligations. That was considered at London to be a fair compromise between the position taken by the British and the position taken by the U. S. The U. S. does not believe that the issues should now be reopened, and the agreement reached at London disregarded. Since the value of yen obligations has declined sharply as a consequency of the depreciation of the yen, it is believed that the British will not sustain any serious loss as a consequence of the exclusion of yen obligations from vesting.

FE:NA:CAFraleigh:ajn

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: August 2, 1951

FROM : NA - Mr. Fearey RAF

SUBJECT: Letter to Luther Evans

I believe the attached revised reply to Luther Evans, cleared by Metzger and Goldblatt, is self-explanatory.

In regard to the third paragraph of the previous draft (copy attached), under the U.S. Copyright Law the United States is normally ready to accord the citizens of another country national treatment in copyright matters within the United States if the President determines that United States citizens are being granted substantially the same treatment in that country as the citizens of that country. A check of the language of the Copyright Law shows that all we require of another country if we are to accord citizens of that country national copyright treatment here is that our citizens should be receiving national treatment in that country, not that they should be receiving substantially equal treatment to that which we accord in the United States. Consequently the fact that Japan limits translation protection to 10 years under its domestic law, while we give such protection for life, should not prevent our granting national copyright treatment to Japan if Japan gives U.S. citizens national treatment, as required, on a reciprocal basis, by Article 12(b), even though the translation rights enjoyed by U.S. citizens in Japan will be limited to 10 years.

With this the case it has seemed feasible to omit the third paragraph of the previous draft, and the fourth as well.

NOTE FOR FILES: I can find no record of this letter ever having been signed and sent by Mr. Dulles, and I believe it was handled by telephone by Mr. Fearey or someone. This is only from memory and it could have been handed to Mr. Dulles for signature and carried out without our having seen it but I don't believe that was the case.

Attachments

bo'd

FE:NA:RAFearey:re

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: July 30, 1951

FROM : NA - Mr. Fearey

SUBJECT: Proposed Changes for August 13 Draft

Attached is a memorandum listing and commenting on all proposed changes to date for the August 13 draft. Enclosed with the memorandum are various annexes, including one proposing definite wording to clarify "on the coming into force of the Treaty" in all places where this phrase occurs.

In addition to the changes listed in the memorandum I would like to raise the following points which occurred to me in going through the draft this weekend.

Article 19(b)

This paragraph provides that

"The foregoing waiver (by Japan) includes any claims arising out of actions taken by any of the Allied Powers with respect to Japanese ships between September 1, 1939, and the coming into force of the present Treaty..."

This seems an unnecessarily broad waiver. It appears to permit an Allied Power to take with impunity any action it wishes with respect to Japanese ships in its ports right up to the time of coming into force of the Treaty. It might be argued, though it is not clear from the language, that such action must, pursuant to the preceding paragraph, arise "out of the war or out of actions taken because of the existence of the state of war", but this could include almost anything. The fact that the waiver covers actions taken right up to the coming into force of the Treaty, instead of just up to surrender, supports the interpretation that a loose reading of the quoted clause, if it can be considered to apply at all, is permissible.

Article 23

Should there not be a three year time limit at the end of the last sentence of paragraph (a), corresponding with that in paragraph (b)? It might read, "..., provided such deposit is made not later than three years after the date of deposit of Japan's ratification". There would seem to be no greater justification for the time limit in paragraph (b) than in paragraph (a).

Article 25

Should the first sentence of Article 25 not read "For the purposes of the present Treaty the Allied Powers shall be the states at war with Japan, or any state which previously formed a part of the territory of a State named in Article 23, provided that in each case the State concerned has signed and ratified the Treaty and that the Treaty has come into force between that State and Japan"?

Otherwise

Otherwise, if the procedure of 23(a) fails, Japan would have to accord the benefits of the treaty to a nation which had signed and ratified it but which had not brought it into force through the required notification under 23(b), and which was accordingly not bound by any of the obligations of Allied Powers under the treaty toward Japan. It could be strongly argued by Japan that it was not obliged to accord the benefits of the treaty to any nation which had not brought the treaty into force, but the suggested amendment would remove the technical inaccuracy in Article 25. OK

Article 26

"Ten years of U.S. Foreign Policy" shows the formal name of the U.N. Declaration of January 1, 1942 to be "Declaration by United Nations". OK

Note U.K. memos of Aug 1 and 2 at beginning of Tab 9, received after this memo was prepared.

FE:NA:RAFearey:re

DEPARTMENT OF STATE

Memorandum of Conversation

Bureau of FAR EASTERN AFFAIRS
JUL 30 1951
ASSISTANT SECRETARY
Department of State

DATE: July 28, 1951

SUBJECT: Japanese Government

PARTICIPANTS: Mr. Kiyohide Okano, Japanese Minister without Portfolio
NA - Mr. Overton
DRF - Mr. Coolidge
DRF - Mr. Wald
NA - Mr. Zurhellen

COPIES TO: FE
NA
DRF

1—1493

Mr. Okano, who is head of the Japanese Local Autonomy Agency, has been observing local government in England; passing through Washington on his way back to Japan, he called on Mr. Johnson, NA, this morning and then met briefly with the above participants.

The gist of Mr. Okano's remarks was as follows:

1. Local autonomy will continue to progress in Japan after the peace treaty, but on the level of cities, towns and villages rather than prefectures. The importance of the prefectural government will steadily decline and the importance of its domination by, or independence of, the central government will correspondingly decrease.

2. While it will now be possible for smaller cities, towns and villages to give up their autonomous police forces by referendum, few will do so because such a move would be opposed by the police themselves and the municipal officials, who are jealous of their independent authority. Only the direst economic difficulties will cause a local public entity to give up its police force.

3.

3. The recent resignation of the Japanese Cabinet was was planned well in advance. Before leaving Tokyo several months ago Mr. Okano was asked by the Prime Minister to sign and leave with him a letter of resignation, for use when the time came.

4. The Yoshida Government should not, and probably will not, resign after signing the peace treaty, or immediately after the treaty becomes effective. Having led the move to accept the treaty, the Yoshida cabinet should accept responsibility for its implementation and would have to stay in office for at least six months after the treaty becomes effective or it woudd be criticized for evading responsibility for its own acts.

5. The influence of depurgees in the central government will not become a major factor in the near future; in order to enter the Cabinet a man must first be elected to the Diet, and it is possible that no general election will be held until the required one in 1953. The depurge of Mr. Hatoyama would have created a problem but now that he is ill that is uncertain.

FE:NA:JOZurhellen:sb

DEPARTMENT OF STATE

Memorandum of Conversation

103 Dept General

DATE: July 24, 1951

RESTRICTED

SUBJECT:

Japanese Peace Treaty.

PARTICIPANTS:

Mr. Paul Wurth, Second Secretary, Swiss Legation.

Mr. Allison - S
R. D. McClelland - WE

COPIES TO:

S - Mr. Allison
EUR
FE
WE - Mr. McClelland

U. S. GOVERNMENT PRINTING OFFICE 16—81120-1

Mr. Wurth called at his request. After an opening exchange of amenities concerning his service with the Swiss Legation in Tokyo during the war, Mr. Wurth stated that Bern had asked the Legation to submit a general report on the Japanese Peace Treaty, and in this connection additional information on certain points would be welcome.

Mr. Wurth asked whether the draft of the Japanese Treaty, as carried by the New York Times on July 12, could be regarded as a final and definitive text. I gave Mr. Wurth a copy of the Department's July 20th release of the treaty as a more recent and convenient text, pointing out that this embodied certain changes, primarily of an editorial nature, over the July 12th press version. I told him that on August 13 we planned to circulate what we hoped would be a final draft of the treaty, since by that time all of the interested countries should have been able to register their views. I sketched in briefly the history of the development of the treaty through its various drafts and consultations with other countries, in particular the United Kingdom, and said that we felt it now represented an honest accommodation of all points of view.

The most contentious issue, as Mr. Wurth no doubt knew, was that of reparations; and certain countries, particularly the Philippines and Burma, had objected to the treatment accorded this problem in the

treaty.

treaty. We believe, however, that the treaty, as drafted, recognizes the principle of the justice of reparations, but at the same time takes into account the realities of the Japanese economic situation, which simply will not support reparations payments. I stressed that it was in the general interest that Japan maintain a viable economy in order not to become vulnerable to communist in-roads.

I mentioned our proposed security arrangement with Japan, stating that it was hoped eventually to integrate it within a broader collective security organization for the Pacific area. Another element of this was our projected security treaty with Australia and New Zealand. I pointed out that while our proposed security arrangement with Japan might seem somewhat one-sided as it now stood, the Japanese were not yet in a position constitutionally to make any commitments themselves regarding their defense. Our arrangement with them was purely provisional and defensive in character, and it was expected that ultimately it would be altered in proportion as the Japanese regained the status of a sovereign state.

I explained to Mr. Wurth that another of the difficulties we had encountered was the question of which Chinese government should sign the treaty. We had ended by adopting the solution that at the moment neither the Nationalists nor the Communists should sign. Japan could later make such bilateral arrangements with either or both as seemed appropriate. I stressed that, as a general rule, we had tried to keep as many extraneous problems as possible, the question of Formosa, for example, out of the Japanese Treaty.

Mr. Wurth inquired about the nature of the September 4 signing conference in San Franscisco. I told him we hoped that it could be confined to formal and ceremonial matters and that it would not involve discussions of the substance of the treaty. Of course, we couldn't guarantee what might happen, and it was to be expected that certain countries would reiterate their objections to some aspects of the treaty.

Mr. Wurth asked when our bilateral security arrangement with Japan would come into force. I replied that we expected the agreement would be signed at the same time as the treaty but probably would not go into effect until the treaty itself had been ratified by our Congress. The earliest one could hope for this would be sometime next spring. SCAP would continue to function in the interim. I told Mr. Wurth that the text of our bilateral security arrangement with Japan would be made public before it was signed. The details of its implementation, however, would be handled in a separate administrative agreement which probably would not be published.

Mr. Wurth

Mr. Wurth inquired whether the treaty would require changes in the Japanese constitution. I expressed the belief that certain slight modifications would undoubtedly be necessary since the Japanese would have to face the problem of sharing the burden of their own defense. What changes in their constitution might be necessary for this purpose would be left up to the Japanese themselves.

Mr. Wurth asked whether we expected to appoint an Ambassador to Tokyo after the treaty was signed. I responded in the affirmative.

Mr. Wurth raised the question of the disposition of certain former Japanese territories such as Southern Sakhalin. I said that we had limited mention of these matters in the treaty simply to a statement of Japanese renunciation of their rights to such territories. In answer to Mr. Wurth's inquiry regarding the Ryukyus, in particular Okinawa. I said that as far as Okinawa was concerned we were thinking along the lines of a UN trusteeship with the US as Administering Authority. We wished to keep the arrangement flexible, however, and Japan would retain at least technical sovereignty over the Ryukyus.

Mr. Wurth asked whether we contemplated any particular economic plan for Japan along the ECA or Point IV lines. I said that we had no such plan at the moment but expected to pay part of the costs for the forces we would retain in Japan, a bill which the Japanese were now footing in its entirety. It was believed that such payments would go a long way toward bridging the gap in Japan's balance of payments. Some slight additional economic aid might, of course, be necessary, but we hoped to keep it to a minimum.

EUR:WE:RDMcClelland:ds

AIR POUCH
PRIORITY

CONFIDENTIAL
(Security Classification)

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General
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FOREIGN SERVICE DESPATCH

Dpt
DESP. NO.

FROM : EMBASSY, Tokyo.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

DATE July 27, 1951.

REF : Mission's despatch 1592, June 26, 1951.

For Dept. Use Only	ACTION	DEPT.
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SUBJECT: Japan Political Summary, June 1951.

1. Peace Treaty Developments. Developments during the first two weeks of June, notably reports of United States-United Kingdom differences over Japanese peace treaty issues, caused confusion and some suspicion in Japan that peace treaty negotiations were being seriously threatened. Doubts were dispersed to a large extent by the Joint DULLES-MORRISON communique of June 14, but the communique in turn gave rise to concern about how Japan should resolve the problem of relations with China. Reservations also developed regarding certain substantive provisions of the draft treaty. However, during the course of the visit of Mr. John M. ALLISON to Tokyo, Japanese officials gave the impression of relief that changes agreed upon at London had not greatly changed the basic character of the treaty and Japanese in general appeared to have regained confidence by the month's end regarding the prospects of an early and favorable peace. There was increased interest in the Bilateral Agreement, but Japanese understanding of the proposed agreement remained nebulous.

2. Meeting of the Socialist Party Central Committee. The Socialist Party Central Committee meeting June 18-19 was characterized by further wrangling between left and right wings of the Party over the Party's peace principles. There was evidence of mounting tension between the right and left-wing factions.

3. National Railway Workers Union Convention. The National Railway Workers Union convention served to focus attention on the factional strife between the right and left wings of the Socialist Party but it was patent that the rightist element is in no position at present to challenge the predominantly leftist majority.

4. Mass Release of Purged or Prominent Japanese Leaders. Review of the cases of all purgees by the Ordinance Review Committee resulted in the announcement by the Japanese Government on June 20 of the first group of depurgees numbering 2,360. Although the Japanese Government had been informed by General Headquarters that the latter had no objections to consideration of the so-called "memorandum" cases under the same criteria as other purgees, the announced list included only a few such cases. Most observers anticipate few political repercussions until the release of more memorandum cases.

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supported the Liberal candidate in the recent elections, while in Kagoshima, Governor SHIGENARI apparently formulated his personnel changes without consulting the prefectural assembly.

The forthcoming elections for Agricultural Committee members have attracted notably little interest. The farmers' lack of interest has been ascribed to lack of information on the proposed work of the committees, the budget shortage for such elections and the fact that working farmers do not have the time to take part in unfamiliar political activities, particularly in the rice planting season.

Little active enthusiasm has been evident concerning the depurge. Several well-known purgees in the Fukuoka area state that they do not intend to re-enter politics, at least immediately. Jiichiro MATSUMOTO, Fukuoka's most prominent purgee and former vice president of the House of Counsillors, however, reportedly intends to return actively to the political arena and is bitterly anti-Yoshida because he blames the Prime Minister for political finagling in connection with his purging.

Although the theoretical advantages of autonomous local police have been pointed out by various commentators, it now appears that most small-unit police forces in the chronically impoverished Kyushu prefectures will probably be abolished under the revised police law. The financial consideration is primary, but available information indicates that most voters have little real interest in local police autonomy as such, and seem more impressed with the supposedly reduced efficiency of post-war police than with the claimed abolition of police oppression.

For the Political Adviser:

Niles W. Bond
Acting Counselor of Mission

cc: American Embassy, London.

5. Internal Differences within the Democratic Party. Open overtures by the Prime Minister to Democratic members of the Upper House for cooperation with the Liberal Party severely strained internal Democratic Party harmony. In an attempt to revive waning Democratic Party influence in Japanese politics the Democrats may attempt to adopt a more progressive policy at the Party's forthcoming national convention.

6. Adjournment of Diet Session. It was generally agreed that the 10th Diet session had accomplished little worthwhile and there was considerable press criticism of the low caliber of many bills introduced.

7. Possible Cease Fire in Korea. Preliminary Japanese reaction to reports of a possible cease fire in Korea was one of mingled hope and skepticism regarding the motives of the Soviet Union. Japanese viewed the impending negotiations from the standpoint of their possible effects on the conclusion of a Japanese peace treaty, their economic repercussions in Japan, and their effect on Japan's security problem.

8. Local Political Developments. The enactment of the Hokkaido Overall Development Law and the first installment of the long-anticipated depurge were the most significant political events affecting Hokkaido. The employment of an American professor by Nagoya University precipitated a demonstration by radical students but there is no evidence that the general student body was affected or that any popular interest or support outside the institution was aroused. In Kyushu, bickering between governors and prefectural assemblies weakened the conservative solidarity evident two months ago at the time of the local elections. There was little public interest in the forthcoming elections for Agricultural Committee members. Indications are that small unit police forces in many towns of Kyushu would be abolished, primarily for financial reasons.

I. Peace Treaty Developments

After several weeks of uncertainty and apprehension during the early part of June, the Japanese Government and people regained confidence that the major differences between the Western Allies had been resolved and that prospects for the signing of the peace treaty by the end of the summer were very favorable. The month under review also saw greater interest on the part of the Japanese Government and press in the proposed security agreement between the United States and Japan.

Developments during the first two weeks of June caused confusion and some suspicion in Japan that peace treaty negotiations were being seriously threatened, first as conferences in London between United States and United Kingdom representatives were described by the press as on the verge of failure over the issues of Chinese participation and British desires to impose economic limitations on Japan, and next as the Soviet Union issued a

new note attacking the substantive provisions and procedure proposed by the United States draft. The Senate hearings in Washington on Far Eastern policy and the French general elections added further notes of disharmony. The Japanese began to fear that United States differences with the United Kingdom, and possibly even with France, might become irreconcilable, or that agreement could be reached only by compromises which would undermine the "seven principles" enunciated by Ambassador Dulles in November 1950. The contents of the Soviet note of June 19 were not widely publicized in Japan but Japanese observers commented that the Soviet Union's reiteration of its opposition to the United States draft treaty came at a time of particular uncertainty in the West with respect to Far Eastern problems and when Japanese Socialist and labor groups were preparing to review their policy of opposition to a separate peace.

The joint communique issued on June 14 by Ambassador Dulles and Foreign Secretary Morrison, however, was greeted with great enthusiasm in Japan as an indication that all serious differences between the United States and the United Kingdom had been resolved and was widely hailed as "Dulles' diplomatic victory". Subsequent information appeared to show that France, Pakistan and India were also in general agreement with the draft proposed by the United States and the United Kingdom. The uncertainties previously dividing Western political circles seemed for the most part to disappear after the French election and after the major government witnesses had testified before the joint Armed Forces-Foreign Relations Committees of the United States Senate. As one result the Soviet note seemed to have had the unexpected effect of almost fortifying the determination of the Western Powers to proceed with the Japanese peace treaty.

The London announcement of June 14 appeared to be good evidence that differences with the United Kingdom would no longer stand in the way of United States efforts to achieve a peace treaty with Japan and that a majority peace in the foreseeable future was now probable. After reflection, however, doubts began to gnaw away at Japanese optimism. The principal problem was what to do about China. Press reports from London indicated that Japan would be permitted by the peace treaty to choose the Chinese regime with which it would conclude a settlement. Consequently, after the initial relief that the Chinese issue had not blocked agreement between the United States and the United Kingdom, the Japanese began to realize that they were confronted with a real dilemma. Although previously high Japanese officials had privately indicated that Japan desired to conclude peace with Nationalist China, their public statements became very guarded and a number of commentators came to the rueful conclusion that Japan was being asked to solve the very problem the major Western Powers themselves could not solve, even though Japan would be in a poor position to protect itself against the consequences of a wrong choice. Kyodo interviews with fourteen Japanese leaders in various fields of activity, the results of which were announced on June 26, showed that despite considerable hedging five favored signing a treaty with Nationalist China, five felt Japan should not sign a treaty

with either Chinese regime until the Far Eastern situation had settled, and four took the view that Japan should follow the lead of the United States in this matter; four of those interviewed dwelt on the importance of trade relations with Red China, and several intimated that Japan should seek a modus vivendi in an effort to get along with both Chinese regimes. The diverse points of view expressed by those interviewed seem to reflect fairly accurately the general uncertainty of the Japanese on this issue. Indications of possible Chinese Communist amenability to a peaceful solution of the Korean war also appeared to support a go-slow policy in regard to the question of signing a treaty with China.

Further reservations regarding substantive provisions of the treaty began to circulate in Japan prior to the arrival of Mr. John M. Allison, Ambassador Dulles' deputy, on June 24. Concern was expressed that significant compromises had been necessary to gain British concurrence in the United States draft and suspicion was focused on possible provisions which might impose limitations on the Japanese shipbuilding industry or which might authorize payment of reparations or delivery of goods as reparations to certain Allied Powers, especially the Philippines. The press also reported that Japan would be obligated to negotiate with the Philippines for delivery of goods and services as reparations. Fears of the probable loss of Japanese assets in Allied countries were aggravated by reports that Japanese assets in neutral nations would also be demanded by the Allied Powers.

The Foreign Ministry also commented on certain of the peace treaty provisions. Article 4, regarding special arrangements for property and claims in renounced areas, was described as impossible to execute in practice. Regarding Article 14, the Japanese stated "we will, as we must, bow to necessity" in assuming the obligation to negotiate for the making of reparations but also asked for powerful diplomatic support from the United States. Clarification and limitation of the right of the Allied Powers to vest Japanese property and of the obligation upon Japan, which was described as contrary to international law, to transfer its assets in neutral and former enemy countries were also sought. During Mr. Allison's visit negotiations between Departmental, SCAP and Japanese officials were held regarding legislation to be enacted by Japan to provide compensation for Allied Powers and their nationals whose property in Japan was damaged or lost as a result of the war. Although the Japanese at first sought to limit rigidly the scope of such compensation, they yielded successively on a number of points so that the draft as ultimately agreed upon, which it is intended to incorporate by reference in the peace treaty, was almost entirely acceptable. The Japanese were originally reluctant to assume an obligation for payment of compensation to non-Japanese who had suffered personal or property damage during the period of the Occupation, but finally inserted an adequate provision in preference to assuming such an obligation in the treaty.

Throughout the course of these discussions, the Japanese officials gave the impression of relief that changes agreed upon at London did not appear to have greatly altered the basic character of the treaty. The possibility that Japan would have to choose the Chinese regime with which it would conclude a treaty clearly caused great concern, but the fact that the draft treaty did not require the making of such a choice and even appeared to confer upon Japan some discretion in the matter served to ease the feeling of direct and immediate pressure. Following out the Government's view that territorial questions had been decided by pre-surrender international declarations accepted by Japan, Japanese officials did not contest the territorial provisions of the draft treaty.

Increased interest in the proposed Bilateral Agreement between United States and Japan was also shown during June. Defense Secretary MARSHALL conferred for one hour with General RIDGWAY and Prime Minister YOSHIDA during his surprise visit to Japan and Korea early in the month and the Japanese press speculated that questions related to Japan's defense and possible rearmament were thoroughly discussed. Several subsequent editorials in Tokyo papers commented on the problem of Japan's security and the necessity that United States troops remain in Japan. Nevertheless, Japanese understanding of the proposed agreement remained nebulous. Japanese commentators continued to refer to a "troop stationing agreement" and to imply that the United States will under the agreement acquire the rights to station troops in Japan for a fixed period of time, to use certain named bases subject to defined legal rights and under the supervision, largely for administrative purposes, of a joint American-Japanese "committee". The military base agreement of 1947 between the United States and the Philippines is obviously the model upon which most Japanese pattern their ideas of the proposed agreement between the United States and Japan.

The Japanese Government raised several points regarding the draft Bilateral Agreement. They suggested that a ratification clause be inserted requiring ratification by both states and providing that the agreement would come into effect at the same time as the peace treaty. They also pointed out that the agreement appeared to contain no clear legal basis for United States participation even though the basis for Japan's participation was set forth.

The Japanese also submitted a memorandum regarding the use of Japanese facilities and property by the Occupation. The memorandum contained a detailed statistical breakdown of facilities by location, type of use, and value. It was estimated that the total value of property now in use by the Allied Occupation amounts to about 550 billion yen. With remarkable restraint the Japanese refrained from commenting on this heavy contribution to the Occupation.

2. Meeting of the Socialist Party Central Committee

The Socialist Party Central Committee meeting June 18-19 was charac-

new note attacking the substantive provisions and procedure proposed by the United States draft. The Senate hearings in Washington on Far Eastern policy and the French general elections added further notes of disharmony. The Japanese began to fear that United States differences with the United Kingdom, and possibly even with France, might become irreconcilable, or that agreement could be reached only by compromises which would undermine the "seven principles" enunciated by Ambassador Dulles in November 1950. The contents of the Soviet note of June 19 were not widely publicized in Japan but Japanese observers commented that the Soviet Union's reiteration of its opposition to the United States draft treaty came at a time of particular uncertainty in the West with respect to Far Eastern problems and when Japanese Socialist and labor groups were preparing to review their policy of opposition to a separate peace.

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Increased interest in the proposed Bilateral Agreement between United States and Japan was also shown during June. Defense Secretary MARSHALL conferred for one hour with General RIDGWAY and Prime Minister YOSHIDA during his surprise visit to Japan and Korea early in the month and the Japanese press speculated that questions related to Japan's defense and possible rearmament were thoroughly discussed. Several subsequent editorials in Tokyo papers commented on the problem of Japan's security and the necessity that United States troops remain in Japan. Nevertheless, Japanese understanding of the proposed agreement remained nebulous. Japanese commentators continued to refer to a "troop stationing agreement" and to imply that the United States will under the agreement acquire the rights to station troops in Japan for a fixed period of time, to use certain named bases subject to defined legal rights and under the supervision, largely for administrative purposes, of a joint American-Japanese "committee". The military base agreement of 1947 between the United States and the Philippines is obviously the model upon which most Japanese pattern their ideas of the proposed agreement between the United States and Japan.

The Japanese Government raised several points regarding the draft Bilateral Agreement. They suggested that a ratification clause be inserted requiring ratification by both states and providing that the agreement would come into effect at the same time as the peace treaty. They also pointed out that the agreement appeared to contain no clear legal basis for United States participation even though the basis for Japan's participation was set forth.

The Japanese also submitted a memorandum regarding the use of Japanese facilities and property by the Occupation. The memorandum contained a detailed statistical breakdown of facilities by location, type of use, and value. It was estimated that the total value of property now in use by the Allied Occupation amounts to about 550 billion yen. With remarkable restraint the Japanese refrained from commenting on this heavy contribution to the Occupation.

2. Meeting of the Socialist Party Central Committee

The Socialist Party Central Committee meeting June 18-19 was charac-

terised by further wrangling between the left and right wings over the Party's peace principles. In spite of vigorous efforts by the rightists to amend substantially the Party's peace policy, final decision on the issue was deferred to the next committee meeting or the coming extraordinary party convention. Socialist left-wing leader Hiroo WADA maintained that a majority peace is inseparable from a military pact and that the danger of war will be increased thereby. He further declared that under a majority peace economic independence would be difficult, asserting that trade with China is essential to Japan's economy. Right-wing leaders answered these arguments by pointing out the impossibility of obtaining an overall peace and the compelling necessity for the Party to comply with the people's desire to be independent. The rightists further argued that a regional collective security system under the United Nations is necessary to fill the post-war vacuum.

The continued dissension within the Socialist Party, as evidenced anew by this Central Committee meeting, appears to be building up to a climax. In spite of the continued adherence to the Socialist peace principles by most of organized labor, the rightist element within the Party is becoming increasingly dissatisfied with the unrealistic policy espoused by the left-wing. So far the centrist group in the Party has sided with the leftists, but indications are now appearing that some of these leaders are beginning to waver. It is believed that the reported failure of the Japanese Socialist delegates to the International Socialist Convention at Frankfort, Germany, all of whom are leftists, to take a definite position on the resolution endorsing armed defense against Communism will tend to increase the present dissension within the Party. The rightists now feel that this action has improved their position by revealing the isolation of the Japan Socialist Party in world Socialism, thereby lending further validity to their argument that the Party's present peace policy is wholly unrealistic.

A further factor which must be reckoned with in this controversy is the position which former Socialist leaders now under the purge restrictions will adopt upon their depurge. If, as is generally expected, they lend their support to the right-wing elements, the leftists may be forced to accede to a substantial modification of the peace principles.

3. National Railway Workers Union Convention

The National Railway Workers Union, Japan's largest single union, held its tenth national convention June 5-7 at Niigata. The attention of all labor was focused on the results in view of the debate raging within the union between rightists and leftists regarding the Socialist peace principles. As a preliminary to the actual convention, the Central Struggle Committee of the union had first voted to shelve the Socialist peace policy, only to reverse its decision on a later ballot. As a result of the divided opinion within the Central Struggle Committee, the issue was presented to the convention in the form of two opposing resolutions: one advocated by the rightists called for exclusion of the

Socialist peace program from the union's policy and support for a "patriotic labor movement"; the other presented by the leftists embodied the three peace principles of the Socialist Party. The rightists argued that real national independence and peace could not be realized unless labor acted within the world policy of the International Confederation of Free Trade Unions, and effectively asserted that advocates of overall peace were only playing the role of a fifth column for the Communists. The leftists, in turn, claimed that a separate peace would be at the sacrifice of the laboring classes and would lead to another world war.

As an indication of the importance which the Socialist Party attached to the convention, top Socialist leaders appeared during the debate and argued their respective opinions. Mosaburo SUZUKI, Socialist chairman, presented his arguments for an overall peace; Kaoru SONE, Socialist right-wing leader, pleaded for a majority peace. As a result, the convention appeared to be a virtual re-enactment of the recent Socialist Party convention. When the final vote was taken, however, the leftist resolution was carried by an overwhelming majority, 292 to 113. The leftists then clinched their victory by proceeding to replace top union officials, all rightists, with officials of their own choosing.

While certain Japanese press quarters stressed the militant position taken by the rightists as an indication of the strength of dissenting opinion within the union, it is apparent that the rightist element is in no position at present to challenge the predominantly leftist majority. The alignment of the Railway Workers Union with the Socialist peace policy will undoubtedly have a strong effect on other labor unions and will strengthen the position of the present left-wing Socialists' leadership in the powerful Japan General Council of Labor Unions (Sohyo). The action of the Railway Workers Union is deemed significant in that it once again illustrates the strong hold which the Socialist Party has on the larger unions as well as the appeal which the three peace principles still seem to possess for the laboring classes. It also demonstrates the amount of interest which present Japanese labor unions have in current political problems, a characteristic which impartial labor observers believe may ultimately compromise the unions in their continuing struggle for higher living standards for their members.

4. Mass Recurge of Former Prominent Japanese Leaders

In addition to peace treaty developments, Japanese attention during the month was centered on activities of the Ordinance Review Committee which had been set up by the Prime Minister with its first mission a review of all purgees. All major political parties sought to put their houses in order in anticipation of the return of former political leaders. After many delays and false alarms which the opposition parties decried as political maneuvering on the part of the Government, the long-awaited first list of 2,960 depurgees was issued by the Government on June 20.

The list included former political, banking and industrial leaders, officials of the Imperial Rule Assistance and Imperial Rule Assistance Youth Associations, and members of the newspaper, radio, motion picture, and theatrical fields. Prominent on the list were Tanzan ISHIBASHI, former Finance Minister, Bukichi MIKI, former prominent Liberal Party member, Junshiro BANDAI, former Mitsubishi Bank Board Chairman, Kishichiro OKURA, former Board Chairman of the Okura Mining Company, and Gisuke WATANABE, former Japan Steel Works president.

In addition to this list of 2,960 depurgees, the Government set up the machinery for the mass depurge of approximately 66,000 local officers and former members of the Imperial Rule Assistance Association and Youth Corps to be carried out under the direction of the prefectural governors.

Although the Government had been informed prior to the depurge announcement that the General Headquarters had no objection to the consideration of the so-called "memorandum" cases under the same criteria as other purgees, the announced list included only a few such cases. Some quarters professed to believe that the Government was purposely delaying the depurging of such men as Ichiro HATOYAMA until the Prime Minister could strengthen his hold on the Liberal Party. As proof of their belief they pointed to the establishment by the Government of a screening committee which would consider at length the more influential purgees on an individual basis.

While most observers anticipate few political repercussions until the release of more memorandum cases, the return of Ishibashi and Miki is being carefully watched for possible effects upon the Liberal Party. Ishibashi is known to be a close friend of Mr. Hatoyama with predictions appearing that he is slated for the post of Finance Minister in a possible Hatoyama cabinet. In the few public statements which he has made since his depurge he has stressed the desirability of Hatoyama's immediate release and has stated his conviction that Yoshida will step down in favor of Hatoyama when the latter is finally removed from the purge. The intentions of Miki, an influential member of the former Liberal Party, are unknown at present, but it is believed he intends to act as an arbitrator between the Yoshida and Hatoyama factions.

Indications are that the depurge will eventually have wide repercussions on the business world, but it appears that few depurgees will return directly to their former business enterprises. Instead, it seems likely that they will work behind the scenes as advisers and mediators, tending to increase the influence of business in the political field. The long absence of these depurgees from the business world, the fact that their average age is nearly seventy, and the establishment of new management after the dissolution of the Zaibatsu would tend to substantiate the belief that few will be able to resume their former activities on an active scale. Since some of the depurgees are internationally known, however, they may have considerable influence in the induction of foreign capital and United States-Japan economic cooperation. As far as immediate

members of the Zaibatsu itself are concerned, the news of their depurge was received by them with considerable coolness, chiefly because the deconcentration law effective until 1958 prohibits them from controlling their enterprises or disposing of their properties.

The announced list covering a total of 69,000 depurgees leaves approximately 195,000 cases, including professional military officers, to be examined by the newly-created Public Office Qualification Screening Committee. The Government anticipates that a second and larger list of depurgees will be announced around the end of July. The remaining relatively few cases will then probably be deferred until at least after the peace treaty.

5. Internal Differences within the Democratic Party

The open overtures of the Prime Minister to Democratic members of the Upper House for cooperation with the Liberal Party presented the Democrats with a serious internal problem. It was obvious that some of the Democratic Councillors looked with favor on the Prime Minister's proposal and were openly eyeing possible ministerial portfolios in the Cabinet. On the other hand, the Lower House Democrats were determined to keep the Democratic Party from close alignment with the Liberals, preferring, if necessary, to oust the pro-Liberal Democrats from the Party.

In hope of solving the impasse, Democrat leaders called a caucus of the Democratic Diet members at which both groups presented their views. When the Lower House members called for the ouster of Councillors INAGAKI and HAYASHIYA, leaders of the pro-Liberal faction, the Upper House Democrats stated that if such a motion were approved they would immediately demand the resignation of the entire Executive Committee, and further threatened to organize a Democratic Club of their own in the Upper House. In view of the open indignation of the Upper House members, the issue was finally shunted to the Supreme Committee of the Party.

After prolonged consultations with the leaders of the pro-Liberal group, the Supreme Committee finally announced that the attempted revolt had been firmly resolved. To impartial observers it seemed more likely that the dissidents had agreed to shelve temporarily their plan of cooperation with the Liberals, but indications were that they had not fully returned to the Democratic fold.

The immediate result of this dissension within the Party was a public statement by Democratic Chief Secretary MIKI to the effect that the problem of reorganizing the Party would be placed high on the agenda at the national party convention late in July. Miki promised that the Democratic Party would "walk its own road" and that Party policy would be directed primarily toward enlisting the support of middle-class elements. Miki emphasized that the Democratic Party will turn down any coalition bid from the Liberals, predicting little success for the latter even if they should continue their attempt to proselytize Upper House Democrats.

proposed place of peace conference can, we hope, be filled

It is believed that the Democratic Party, in a desperate attempt to revive its waning influence in Japanese politics, will adopt a more progressive policy at the coming national convention, hoping thereby to achieve the support of small and medium business, farmers, and moderate labor union elements. It has been apparent for some time that the close resemblance of the Democratic Party's policy with that of the Liberals has been a major reason for its poor showing in the elections. A shift to the left may quite possibly result in driving the pro-Liberal elements out of the Party, but it is apparently the hope of the present Party leaders that many recently depurged political figures will join the Party if it becomes more progressive in policy. The Party is handicapped because of a lack of established political leaders; the only big name which it now possesses is that of former Prime Minister Hitoshi ASHIDA who still has not been cleared of his alleged involvement in the Showa Denko scandal. As a result of this leadership deficiency, it is obvious that Party leaders are looking longingly at certain prominent depurgees as well as those who are to be depurged in the near future.

While a shift in policy to a more aggressive progressivism might hold some appeal to certain elements now on the fringe of the Liberal Party, it does not appear that the Democratic Party in its present condition can hope for a major revival of its power and influence. A veer toward the left would only bring it closer to the right-wing Socialists, whereas a continuation of present policy leaves little to differentiate it from the Liberal Party.

6. Adjournment of Diet Session

The 10th Session of the Diet adjourned June 5 after three extensions were secured in order to effect passage of major legislation. It had been in session 178 days and had passed 254 of the 278 bills submitted. The closing days of the session witnessed the passage of the Police Law Revision Bill, the Hokkaido Development Law Revision Bill, and the Medicine-Pharmacy Separation Bill, all of which were considered of major importance by the Government.

It was generally agreed by outside observers that the long session had accomplished little worthwhile, some of the major newspapers even asserting that the only important bill passed was the 1951-52 budget. Although the Government praised the passage of the Police Law Revision Bill, even members of the Liberal Party itself seemed half-hearted in their support of it, especially since it was well known that further revisions of the police system will be undertaken after the peace treaty. The long-debated bill on the separation of medicine and pharmacy was considerably weakened by last-minute revisions, while the Hokkaido Development Bill--the chief reason for the final extension of the Diet--was considered by most quarters as nothing but a disagreeable manifestation of party politics.

Members of the Diet were subject to considerable criticism by the press because of their obvious lack of interest in the merits of proposed legislation and the low caliber of many bills which they introduced. Most members appeared greatly interested in the local elections, the selection of new Liberal officers and possible reshuffling of the Cabinet, and intra-party wrangles. The only topic of general non-political interest was the proposed peace treaty with committee interpellations of Government officials in this matter closely followed by all Diet members.

7. Possible Cease Fire in Korea

During the early part of the month reports rumors appeared regarding possible truce negotiations in the Korean conflict. The visit of General MARSHALL to Japan and Korea served to precipitate the generally prevalent view that a cease fire might be possible. The proposal of Soviet United Nations representative MALIK for truce negotiations, however, took most Japanese by surprise, not so much because of its confirmation of the peace rumors but chiefly because few quarters expected such an overt move on the part of the Soviets.

Preliminary Japanese reaction was one of hope mingled with extreme skepticism regarding the motives of the Reds. To many the apparently frank statement of Mr. MALIK seemed too guileless to be taken literally by the free nations of the world. As it became more and more evident that, at least on the surface, the Soviets were willing to begin truce negotiations, increased concern appeared regarding the effects on the Japanese economy of a possible cease fire. While some business circles professed to believe that Korean reconstruction and Southeast Asian markets would prevent any [illegible] depression, majority opinion was that an abrupt suspension of [illegible] procurement by the United States would produce a severe depression in Japan. On the other hand, the Japanese public was also experienced a considerable rise in the [illegible] of the Korean hostilities [illegible] with immediate prospects of [illegible] and transportation rates. Rightly or wrongly, a cessation of hostilities seemed to promise [illegible] of meeting their daily living [illegible].

While certain [illegible] Foreign Office, were quoted as [illegible] delay the Japanese peace treaty [illegible] agreement last conclusion of a Korean [illegible] one of the Allied Powers to effect a [illegible] on the proposed treaty. To these observers the [illegible] peace offensive with general agreement on [illegible] on the terms of the treaty between the [illegible]. These observers believed that [illegible] maintained their aggression in Korea, [illegible] ring control of Japan would remain the [illegible] the proposed

majority peace treaty which would, in effect, make Japan a virtual member of the anti-Communist bloc with eventual rearmament, they would have taken a long step forward in their aim of dominating the Far East.

In spite of all these considerations, however, most Japanese still hoped that the opening overtures looking toward a cease fire in Korea would bring at least an uneasy truce, if not lasting peace. Nevertheless, even though Japan's proximity to Korea renders the solution of the Korean hostilities of vital importance to an unarmed and defenseless country, the prospect of a peace treaty in the near future overshadowed all else. Whether the future negotiations in Korea will result in a cessation of hostilities or end in failure with a resumption of large-scale fighting, the Japanese seem agreed that what they want above all else is the return of their own independence.

8. Local Political Developments

Sapporo (Vice Consul David L. OSBORN): It was generally agreed that no spectacular changes in the Hokkaido political scene would result from the depurge but a strengthening of conservative forces was expected. Mr. Osborn observes, however, that infusion of new blood into conservative ranks will probably engender intra-party friction and that it is possible that some of the conservative impetus gained from the depurge may have the centripetal effect of inducing some centrist elements of the conservative parties to identify themselves with the left.

The Bill for the Partial Revision of the Hokkaido Overall Development Law, which establishes a Central Government-controlled Hokkaido Development Bureau to take charge of all nationally-financed development works, was passed by the Diet. Opposition to the measure, which had been widespread and strong in the Prefecture when the proposal was first announced, had dwindled considerably by the end of June. Now that the Government measure has passed, public concern centers on the question of how the program is to be managed. There is some substance to the complaint that the development program has been retarded by projected administrative changes and Governor TANAKA proposed a modus vivendi which would postpone the through-going reorganization until next spring, thereby permitting the summer's work to be accomplished without the disrupting effects of reorganization. The Central Government indicated that the Governor's proposal will be accepted. Nevertheless, personality clashes are anticipated between the Prefectural and Bureau officials. The enmity between Governor [redacted] and Bureau chief IKEDA is well known and it has been announced that Tarizo KUROSAWA, Tanaka's opponent in the April elections, has been appointed to the Bureau in an advisory capacity.

Seizures of Japanese fishing vessels by Soviet patrol crafts continued, ten vessels reportedly being captured between May 30 and mid-June. However, the vessels were promptly released.

Communist activities showed an attempt at tightening of discipline and intensification of strict Party-line agitation, reflecting in part the rumored dissatisfaction of National Party Headquarters with the behavior of the Hokkaido Regional Committee in the April elections when Japan Communist Party issues were subordinated to local election issues. Communist Party propaganda in Hokkaido is to hew to the line: (1) that the National Guard Division was sent to oppress and exploit the people and to prepare for an attack on Communist China and/or the Soviet Union; and (2) that the National Police Reserve is to be a tool in this aggression, with the connivance of the "traitorous" Yoshida Government.

Nagoya (Vice Consul Herbert B. LEGGETT): Nagoya University students attracted nationwide attention in June when approximately 200 students publicly protested the employment of an American professor, Dr. Emile LANIER, one of 30 guest instructors employed on two-year contracts by the Japanese Government under a program sponsored by the Institute of International Education. Responding to an order of the Communist All-Japan Students Federation Headquarters in Tokyo, leftist campus leaders managed to enlist the support of about one-tenth of the student body to demonstrate and distribute handbills. The pretext for the demonstration was the failure of the administration section to consult the balance of the faculty before adding a foreign instructor to the staff. Peace appears to have descended upon the campus with Dr. Lanier's arrival to assume his teaching duties, following a lengthy faculty conference during which a resolution welcoming the American professors who have come to Japan was finally adopted and an assurance given the president of the university that the faculty would endeavor to enlighten the students concerning the circumstances surrounding the addition of Dr. Lanier to the staff. Except for the embarrassment caused the university administration, evidence is lacking that the general student body was affected or that any popular interest or support outside the institution was aroused.

The press continued to pay close attention to the peace treaty developments, unanimously approved the depurge decision while urging caution against a too uncritical acceptance of men who have been out of touch with the post-war democratic development, and tended to discuss the Korean cease fire discussion largely in terms of what an end to hostilities may mean to the economy of Japan.

Fukuoka (Vice Consul Thomas W. [illegible]): The appearance of conservative solidarity which dominated Kyushu at the time of the local elections two months ago now seems much less solid. Bickering between governors and prefectural assemblies over personnel appointments has been common to all prefectures in the Kyushu circular district.

Japanese observers criticize an alleged tendency toward renewed centralism and bureaucracy in the prefectural governors' methods of appointment and control. In Miyazaki, Governor TANAKA has embarked on a determined campaign to oust prefectural government personnel who

DEPARTMENT OF STATE

THE LEGAL ADVISER

July 20, 1951

MEMORANDUM

TO: S - Mr. Allison

FROM: L/E - Mr. Metzger

Attached is the original and one copy of a request for change in Article 12 by the Librarian of Congress, relating to copyright. I am sending a separate copy to Bob Fearey.

Attachment:

As stated above.

L:L/E:SDMetzger:blm

THE LIBRARIAN OF CONGRESS

WASHINGTON 25, D.C.

July 19, 1951

Dear Mr. Dulles:

It has been brought to my attention that Article 12 of the Japanese Peace Treaty draft, as published in the New York Times on July 13, 1951, recites that Japan declares its readiness promptly to enter into negotiations for the conclusion with each of the Allied powers of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis. Article 12 further provides that Japan will, during a period of four years from the coming into force of the present treaty, accord national treatment to each of the Allied powers and its nationals with respect to "rights to property". If the term "rights to property" is intended to include copyrights, it is recommended that immediately following those words there be added the phrase "including industrial, literary and artistic property rights", words which are broader than copyright, but which occur elsewhere in the treaty draft, namely in (b) and (c) of Article 15.

It is most desirable that the addition of such a phrase be made, for if it is not done, there may be considerable doubt and confusion as to whether it was intended to include copyrights in the provisions of said article. However, in the event that it is found impossible to add the suggested phrase, we urge that, at the very least, the words "tangible and intangible" which are used in Article 15 be added. Unless there is some such addition, the different language employed here from that in Article 15 may be used to support an interpretation of the treaty which would exclude copyrights from the provisions of Article 12.

This recommendation is made for the reason that while other countries get substantially national treatment in relation to copyright in Japan, such is

not the case for the United States, whose authors are not entitled to any translation rights in Japan under the 1905 copyright convention with that country.

If there is no provision for the securing of copyright in the treaty, and the United States permits its existing copyright convention with Japan to be abrogated under the terms of Article 7 of the treaty, United States authors will not be able to secure copyright in Japan after the one year period from the time the treaty takes effect. The four year period provided in Article 12 of the treaty would give greater opportunity to enter into needed new copyright relations with Japan and enable United States authors during that time to secure copyright in Japan on the basis of national treatment.

Your favorable consideration of the above recommendation is requested.

Sincerely yours,

Luther H. Evans

Luther H. Evans
Librarian of Congress

The Honorable
John Foster Dulles
Consultant to the Secretary of State
Department of State
Washington 25, D. C.

COPY

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/s/ Luther H. Evans

Luther H. Evans
Librarian of Congress

The Honorable
John Foster Dulles
Consultant to the Secretary of State
Department of State
Washington 25, D. C.

CONFIDENTIAL

DEPARTMENT OF STATE

Memorandum of Conversation

DATE:
July 18, 1951

SUBJECT:

Negotiations on Japan's Prewar Indebtedness

PARTICIPANTS:

Mr. T. Watanabe - Financial Commissioner
Mr. C. Sugiyama - Deputy Financial Commissioner
Mr. N. Hemmendinger - NA

COPIES TO:

Mr. Allison	FE
Mr. McDiarmid - OFD	NA
Mr. Robinson - OFD	USFOLAD

U. S. GOVERNMENT PRINTING OFFICE 16—61120-1

Mr. Watanabe stated that with publication of the draft treaty there was considerable interest in New York financial circles and elsewhere on the timing of the negotiations with respect to Japanese prewar indebtedness contemplated by Article 18 of the treaty. Mr. Watanabe would appreciate an expression of opinion on the manner and timing of such negotiations. He indicated that he would be charged with conducting them. He made clear that this interview was informal and for his present guidance. He expressed the opinion that it would be important in view of the treaty obligations for Japan to commence negotiations soon after the signing of the treaty.

I indicated that I was not in a position to give an official guidance on Mr. Watanabe's questions, but that I was inclined to agree that such negotiations should be undertaken soon after the signing of the treaty. I suggested that it was important for the Japanese to consider the total amount which they would be able to pay in the post-treaty period for the servicing of three categories of charges: obligations arising out of the war and the occupation, prewar obligations, and postwar obligations. They would have to consider what was an appropriate breakdown among these three classes. This question was receiving active consideration in the U.S. Government, in relation as well to the financial arrangements associated with the maintenance of U.S. forces in Japan. I hoped that the U.S. would be able to give some idea of our thinking on this entire group of questions before the signing of the treaty. I indicated that the prewar indebtedness was essentially a matter for negotiation between the Japanese and the representatives of the bondholders and that the U.S. Government might not adopt a precise position. He would, I anticipated, be able to give both sides some idea of the kind of settlement that seemed appropriate.

With

With respect to the manner of negotiations, I suggested, and Mr. Watanabe agreed, that it would probably be necessary for the Japanese Government to come forward with an initial proposal since the bondholders' position would naturally be that they desired a payment of interest and principal in full. Mr. Watanabe pointed out that the sterling indebtedness was much larger than their dollar indebtedness on foreign currency bonds and that in general it would probably be necessary for the same kind of settlement to be made with both groups. He stated that he thought he would be expected to attend the peace treaty conference in San Francisco and that he was thinking of returning to Japan immediately thereafter, primarily to discuss this problem. He would then come back to the U.S. with a Japanese proposal, which he would discuss with the Department before taking it up with the bondholders. He had not reached any conclusion as to how it should be taken up with the British, but was considering discussions first with the American bondholders, and assumed that the British Council would be informed by the American Council of the discussions.

ME:NA:HHemmendinger:lb
7/19/51

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Dulles

DATE: July 13, 1951

FROM : NA - Mr. Hemmendinger

SUBJECT: Paragraph 19(c) of draft peace treaty

Tokyo's telegram No. 111, July 13, points out that the reciprocal waiver of Japanese wartime claims against Germany and German wartime claims against Japan provided for in Article 19(c) could be construed to mean that German assets in Japan arising in the war period should be excepted from the program for liquidation of German assets in Japan, and that rights of the ICRC under Article 16 to Japanese wartime assets in Germany would be similarly prejudiced. This result was certainly not intended by the UK, which proposed paragraph 19(c), since the UK is obviously interested in maximizing proceeds from both German assets in Japan and Japanese assets in Germany. Moreover, the exception, even if intended, would be extremely difficult to administer.

For purposes of clarification it is therefore proposed that the following sentence be added to paragraph 19(c):

"Such waivers shall not ~~affect~~ prejudice actions taken in accordance with Article 16 and Article 20 of this treaty."

The attached telegram to USPOLAD, Tokyo has been drafted accordingly.

Attachment:

To USPOLAD, Tokyo.

FE:NA:SGKallis:plh

SECRET

1. The blank in the covering memorandum as to the proposed place of peace conference can, we hope, be filled in by the end of this week or the first of next week, and the Ambassador will be notified accordingly.

2. There are still a few textual changes under consideration, chiefly of style and clarification and none of great substance, which would be dealt with in the proposed July 20 draft. The language in Article 16 with reference to shares of the BIS may be altered to meet the views of the BIS.

3. One or both Embassies of the U.S. and U.K. at the capital of the Government in question will have copies of the July 3 draft treaty available for the use of the Foreign Office if it desires to avail this facility to avoid delay, or expense of cable.

4. The present text largely takes account of the suggestions and observations heretofore submitted by the Government and, while the present draft does not fully meet the views of any Government, including the U.S. and U.K., it is believed to be generally acceptable, and the disagreements not sufficiently important to delay united and prompt action to secure a Japanese peace.

5. China will not be invited to sign the multilateral treaty. It is understood that a statement of position of U.S. and U.K. in this respect and regarding Formosa has

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5. China will not be invited to sign the multilateral treaty. It is understood that a statement of position of the U.S and U.K. in this respect and regarding Formosa has been communicated to the Government through the U.K.

6. A copy of this text will be given the U.S.S.R. with renewed invitation to participate.

7. Emphasize secrecy.

[illegible]:as/mb
July 3, 1951

CHINESE PARTICIPATION AND FORMOSA

The Governments principally concerned with the Peace Treaty with Japan are not agreed among themselves as to what persons, if any, would possess the lawful and practical authority to commit the whole Chinese nation to permanent engagements. However, that fact should not be allowed to delay the Japanese Peace settlement, the early conclusion of which is generally agreed to be important.

2. It is accordingly proposed to proceed without any Chinese co-signature to the presently contemplated multilateral Treaty of peace. The interest of the Chinese people would be safeguarded by provisions in the multilateral treaty designed to assure that major benefits will enure to China even though there is no signature or ratification of that treaty on behalf of China. Thus the draft now under consideration contemplates that when the treaty comes into force all Japanese special rights and interests in China would automatically be renounced and China would have the right to deal for its own account with Japanese property.

3. It is understood that the contemplated procedure will not imply any alteration in the various positions concerning China held by the various Allied governments which will sign the multilateral treaty and that, under international law, Japan's future attitude toward China must necessarily be for determination by Japan itself in the exercise of the sovereign and independent status contemplated by the treaty. The treaty has been framed so as not to prejudice that important principle.

4. By the contemplated multilateral treaty, Japan would renounce its sovereignty over Formosa and the Pescadores. The treaty would not try to pre-judge the future of these islands, which is still to be considered.

used. Ready, in case of Indonesia, Burma.

Amendments to July 3 Draft

Drafting and editorial changes

(See alterations in attached copy)

Essentially Drafting Changes but with Some Change of Meaning

Article 2 (f) -- France proposes substitution of "Japan renounces all right, title and claim to islands of the South China Sea," or words to that effect.

Mr. Fequant of the French Embassy states that the purpose of this change has already been largely defeated by mention of Spratly and the Paracels in the July 3 draft. The change would seem to have little advantage in any event. The substitute language is awkward and inprecise.

Article 3 -- See attached memorandum from Mr. Boggs, Department geographer.

Article 4 -- The Japanese Government states as follows in its Observations of July 2:

"(1) The first half of (a) is understood to mean:

> The disposition of property of Japan and its nationals in the areas referred to in Articles 2 and 3, and their claims, including debts against the authorities presently administering the areas referred to above and the residents (including juridical persons) thereof, and the disposition of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangemen ts between Japan and such authorities.

It seems to us the execution of this Article will prove impossible in practice. (What has happened in Korea shince the war's end serves to illustrate our point). Accordingly, we still believe that our formula submitted before (Property succession __ positive or negiative __ terminates in the respective areas concerned) is the sole practical formula. In case the provision as proposed were to be retained, we would need in its execution absolute diplomatic support from the American government, without which it would be impossible to achieve any concrete results.

"(2) It will be necessary to specify that "claims" mentioned herein do not include war reparations.

"(3) As to the restitution of Allied property in these areas (Second half of Article 4), we should like to have it clearly stipulated that restitution is to be made by the authorities presently administering the areas."

It is believed that the Japanese rewording of the first sentence of paragraph (a) avoids two faults in the present wording: (1) the first part of the sentence, particularly the phrase "in or against the authorities presently administering the areas", is grammatically bad and unclear, and (2) the second part of the sentence seems to speak of the property and claims of "such authorities and residents against Japan and its nationals" though obviously only claims ~~it is hard to understand how property~~ could be "against Japan or its nationals. The Japanese rewording corrects the first part of the sentence and makes clear in the second that only the claims of such authorities are to be the subject of special arrangements. It would be inequitable for the property in Japan of a resident of Formosa to be included within the scope of the special arrangements.

The Japanese Government's position that it is necessary to specify that the claims mentioned do not include reparations seems unwarranted. There would seem to be no possibility of the former Japanese colonies of Korea, Formosa and Sakhalin, which constituted integral parts of Japan and the Japanese war complex, ~~of~~ being able legally to advance reparations claims against Japan. It would appear inadvisable to lend any support to such idea by specifically excepting reparations claims.

The third Japanese point, that it should be made clear that the restitution called for is to be made by the present administering authorities (and Japan has no responsibility), raises the question whether the sentence should not in fact be deleted entirely. The obligation therein imposed is intended to be on the administering authorities but these (certainly in the case of Korea and Formosa and almost certainly in the case of Sakhalin and the Kuriles) will not be parties to the treaty and will not be bound by anything it says.

Article 8 -- It appears that two treaties were signed at Lausanne on July 24, 1923, the Treaty of Peace with Turkey and the Treaty Relating to the Regime of the Straits. The British, in including reference to the Treaty of Lausanne, had reference to Article 16 of the Treaty with Turkey. They will probably agree to the revision indicated in the attached draft clearly specifying this treaty, without wanting also to eliminate Japan from the second treaty, since that was superseded by Montreux in 1936.

Article 12 (b)(ii) -- In order to distinguish more clearly between the treatment required in the importing process, where m-f-n is called for under paragraph (b)(i), and the treatment of goods after they are imported (national treatment), it has been recommended by the Commercial Policy Division that "imported goods" be substituted for "imports" at the beginning of para (b)(ii).

Article 15 (a) -- The last part of the last sentence, as proposed to Tokyo and London, is to read:

> "...compensation will be made in accordance with the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July ___."

Article 16 -- The phrase "or the equivalent of such assets" has been subject to several interpretations in the Department. Some have understood it to mean that Japan is permitted to substitute for particular assets in a neutral country which it wishes to retain "equivalent" assets which would be transferred instead. Others believe that it means that Japan must make up from other sources the difference between the gross amount of its assets in neutral countries and the amount actually collected by the Red Cross. I understand the latter is intended but even this interpretation might be in several variations under the present language.

~~The Japanese Government states:~~

Article 17 (a) -- The Japanese Government states:

"All records and documents of the Japanese Prize Courts were turned over the Occupation authorites, who then reviewed the Japanese court decisions. Of the vessels that had been confiscated by Japan through due processes of law, most of those which could be returned, were restored to their original conditions and returned to their original owners on orders from the Occupation authorities.

"Accordingly, it would seem sufficient for the peace treaty only to stipulate that with respect to compensation for the vessels and cargoes, which are due to be returned, but of which restitution is impossible, the provisions of Article 15 shall apply."

The second sentence of Article 17 (a) reads: "In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned." Article 15 requires the return of all Allied property which was within Japan between Pearl Harbor and surrender. In the case of prizes the seized ship or cargo would, therefore, have to be returned whatever the rightness of wrongness of the prize court decision. The only purpose of the above quoted sentence, therefore, would seem to be to invoke the compensation provisions of Article 15 (the last sentence of paragraph (a) of Article 15) should the prize vessel or cargo have been damaged or lost. This sentence, however, has been revised to provide that compensation shall be provided only for lost or damaged property which was within Japan on December 7, 1941. No prizes could have been teken by this date, so that the last sentence of paragraph (a) of Article 17 would no longer seem to have any point.

It would seem in any event that compensation should not be provided for prizes, whether taken legally or illegally, which were lost or damaged, any more than for property looted by Japan which was lost or damaged. No compensation for lost or damaged looted property is now made under Article 15. If such compensation were paid it would be reparations, which we have opposed except under the limited circumstances of Article 14 (a) 1.

Probably all of Article 17 (a) could be deleted without loss. The British may want to keep it, however, so that if a prize court decision was not in accordance with international law the original title of the owner can be restored by reversing the decision. Otherwise even though the owner may have the ship back by occupation order, it would have been recovered as reparations, with the original title lost. It is believed that the U.S. should propose its deletion however.

Addendum to Memorandum of "Amendments to July 3 Treaty Draft"

SCAP has been advised that the following suggested addition at the end of Article 19 (b) will be included in the July 20 draft: "...but does not include claims recognized in the laws of any Allied Power enacted since September 2, 1945."

FE:NA:RAFearey:re

To: Ambassador Dulles

Subject: Article 13 (Commercial Relations)

Both the May 3 draft and the proposed U.S. revision contain detailed provisions concerning the types of treatment which Japan will be bound to accord to Allied Powers and their nationals during the 5 year period following the Treaty, relating to customs duties and other import and export regulations, shipping, taxation, the making and performance of contracts, property rights, etc. Although Japan is bound to accord rights with respect to these matters only if the Allied Power reciprocates, this is a one-sided reciprocity, since the Allied Power may decide to accord favorable treatment to Japan in an area where it stands to gain much and give little, while deciding not to grant favorable treatment in those areas in which it stands to give much and gain little.

The same problem arose recently in the discussions of the Intergovernmental Study Group on Germany. There, the U.K. and French desired a similarly elaborate provision on commercial relations, which the United States resisted. Apart from the fact that the U.S. delegation believed that the function of a peace treaty was to settle questions which arose from the war and not to regulate peace-time relationships which had nothing to do with the war (here, precedent was against us, viz., Italian Treaty, article 82), the U.S. believed that it was best to minimize the scope of such "reciprocal" obligations on the part of the defeated enemy, as well as the time during which those obligations would persist. The U.K. and French refused to accept a general and reciprocal obligation on the part of Germany to accord most favored nation and national treatment in commercial relations, shipping, navigation, and establishment matters. However, they finally accepted a solution whereby Germany would give unilateral assurances that it would, generally, accord such treatment. The United States believed that it was better to have a unilateral general commitment than a very detailed "reciprocal" commitment.

It is suggested that you may wish to consider the replacement of article 13 by a short unilateral undertaking by Japan to accord general MFN and national treatment during the period of 2 years pending the conclusion of commercial

treaties between Japan and individual Allied Powers. Since the undertaking would be unilateral, it is believed that the period should be shortened from the present 5 years to something like 2 years.

One further point. Both the May 3 draft and the U.S. proposed revision contain a unilateral obligation on the part of Japan to compensate for private property taken for public purposes. This, of course, is a principle of international law by which Japan is already bound. To insert it in the treaty for the special observance of Japan tends to derogate from its authority as a general rule of law binding all nations, not only defeated enemies. As a consequence, I would urge that it be eliminated, regardless whether the general proposition put forth by this paper is adopted. The United States succeeded in dissuading the U.K. and French on this point during the recent discussions on Germany.

There is attached a new draft article 13 consistent with this paper.

Dulles

(b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of two (2) years from the coming into force of the present Treaty, pursue a general policy of non-discrimination towards the Allied Powers, and their nationals, and will in general accord national and most-favoured nation treatment on matters affecting such nationals and their property, rights and interests in the field of establishment and navigation.

MEMORANDUM

114

June 14, 1951

To: Mr. Allison

From: S. Metzger

Subject:

At yesterday's meeting Mr. Fitzmaurice raised the question whether agreements concluded by SCAP on behalf of Japan with foreign countries would necessarily cease to have effect upon the coming into force of the Peace Treaty.

About five weeks ago SCAP raised the problem with Washington concerning commercial agreements made by SCAP. This telegram did not, as I recall, distinguish between those agreements which contain a specific clause stating that they will cease to have an operative effect upon the coming into force of a peace treaty, and those which did not contain such a clause. The Department replied about three weeks ago that SCAP could authorize the Japanese Government to negotiate for extension of all such agreements, which would be legally operative now as well as after the coming into force of the treaty. As I recall it, both SCAP's query and our reply dealt only with commercial and trade agreements. It is suggested that you might bring up the matter while in Tokyo so that appropriate amendments to existing agreements, whose terminal date goes beyond the likely date for coming into force of the treaty, may be appropriately extended.

SDMetzger:lpr

Mrs. Allison (Mr. Dulles' OFFICE
Representing concurrence
of Mrs Rubbe, Mrs.
Reinhardt & NA.
P77

CONFIDENTIAL

JAPANESE PARTICIPATION IN BIS

PROBLEM:

To determine the U.S. position (for purposes of the Japanese Peace Treaty discussions) respecting treatment of: (a) Japanese participation in the control and share ownership of the BIS; (b) the Japanese claim arising out of her participation in the Annuity Trust Account in the BIS set up to facilitate the transfer of World War I German reparations.

~~REMARKS~~ RECOMMENDATION:

(a) The disposition of the Japanese participation in the control and ownership of BIS should be worked out on a voluntary basis and should not be embodied in the Japanese Peace Treaty. However, the United States should be willing to associate herself with the U.K. and other interested governments in requesting Japan to relinquish her participation in the control of the BIS (possibly this may require amendment of the Hague Convention of 1930). If, following such relinquishment of participation in control the Japanese Government desires the Japanese banks holding shares in the BIS to dispose of such shares, the U.S. should assist, if necessary, in arrangements for their disposition on an equitable basis.

(b) The Japanese claim arising out of her participation in the Annuity Trust Account of the BIS should be extinguished (without compansation) by an appropriate provision in the Japanese Peace Treaty.

DISCUSSION

There does not appear to be any justification for imposing upon Japan in the Peace Treaty any obligation in connection with her participation in the control and ownership of the BIS. Although this institution grew out of the attempt in the Young Plan to settle German reparations for World War I, Japan, like other major participants, subscribed nearly $1 million to the capital of the Bank which was established as a permanent international financial institution. The Japanese interest in the capital of the Bank is not included in any category of Japanese assets to be taken over by the Allies as a result of World War II, and the elimination of the Japanese participation in the control of BIS would not appear to serve any security objective. However, the resumption of Japanese participation in the management of the Bank would not appear to serve any useful purpose and perhaps would run counter to U.S. objectives in respect to the role of the International Monetary Fund.

Since the end of hostilities, the BIS has taken on the aspect of an exclusively European institution, its major operating role being a clearing house for intra-European trade and payments under the OEEC. The participation of an important non-European country would give to the Bank the aspect of a global institution.

Since, under the charter of the BIS, participation in management is dissassociated from share ownership, it would be possible for the consortium of Japanese banks who subscribed to the BIS shares to continue to hold such shares even after the relinquishment of Japan's participation in the control of the institution. However, in view of the Japanese foreign exchange position, the Japanese Government may desire to realize the value of these shares. Furthermore, since the transfer of shares requires the consent of the directors of the BIS, arrangements for the liquidation of the Japanese interest could best be accomplished in connection with the general peace settlement. The United States should be willing to assist Japan in arranging for such liquidation. Since the asset value of these shares has approximately doubled since the Bank was established, a price considerably in excess of the original cost of the shares to Japan would appear equitable.

The Japanese participation in the Annuity Trust Account of the BIS is, in reality, a claim against Germany and solely related to the World War I reparations settlement. The likely liquidation value of this claim is negligible, particularly since it is denominated in reichsmarks and, therefore, possibly subject to the 90% write-down of such claims under the German Currency Reform Law. In any case, it would appear logical that Japan should not be permitted to participate in any limited payments which Germany is able to make in connection with the German claims settlements now being arranged by the Allied Powers.

June 1, 1951

Mr. W. D. Gecho,
Vice-President, American
Trading Company, Inc.,
96 Wall Street,
New York 5, New York.

Dear Sir:

Apparently you received a somewhat false impression of my talk the other day as I did not mean to imply that the Japanese draft legislation for recompense of foreign property was in final shape as yet. We have had preliminary drafts from the Japanese of legislations which they propose to pass providing for compensation for loss or damage suffered by allied property in Japan as the result of the war, but such drafts are not yet complete and are not in a shape which could usefully be made available at this time. As these matters take more helpful form an effort will be made to make them available to responsible American trade interests for their suggestions.

I am leaving for Japan tomorrow via London and upon my return around July 1, I will be glad to get in touch with you again and see if there is not by that time something available which I can show you.

Very truly yours,

John M. Allison

S:JMA:mb

AMERICAN TRADING COMPANY, INC.

96 WALL STREET

CABLE ADDRESS:
"AMTRACO"

NEW YORK 5, N.Y. May 29th, 1951.

Mr. John M. Allison, Director,
Office of Northeast-Asian Affairs,
Department of State,
Washington, D.C.

Dear Sir:-

We would appreciate receiving copy of drafts of the Japanese proposals for the restitution of foreign properties, which you mentioned in talk at the American Institute of Pacific Relations luncheon today at the Bankers Club.

Yours very truly,

AMERICAN TRADING COMPANY, INC.,

W. D. CACHO,
Vice-President.

WDC:RL

For Dulles

SECRET

MEMORANDUM FOR MR. DULLES

Attorney General's Proposal on Article 15

1. It has been generally agreed that reparations should be taken only from Japanese external assets, not from Japanese internal assets. The question of what should be considered an external asset as distinguished from an internal asset is a difficult one, especially with respect to obligations owed by persons within Japan. Further complications are introduced where such obligations are evidenced by bearer instruments outside of Japan.

Article 15 of the draft treaty states that each Allied Power shall have the right to seize and liquidate property which at a certain time was "subject to its jurisdiction". This language leaves open the question of what property is subject to an Allied Power's jurisdiction. The Attorney General feels that the treaty should be more specific as to what obligations should be considered within the jurisdiction of an Allied Power.

2. It is the view of both the Attorney General and the Department of State that obligations owed by Japanese in Japan to other Japanese in Japan should be regarded as internal assets and should not be subject to seizure even though paper evidence of the obligation may have been seized by an Allied Power. If, however, those obligations are owed to enterprises organized under the laws of an Allied Power or branches of Japanese enterprises doing business in the territory of an Allied Power, the property should be regarded as part of an economic complex doing business in that territory and the obligations should be regarded as seizable external assets. The Attorney General proposes an addition to the present draft of Article 15 which would specifically lay down this policy.

3. The present text of Article 15 may be broad enough to allow the Attorney General to pursue the suggested policy. However, the text does not ensure that other Allied Powers will follow the same interpretation.

Moreover, the Attorney General feels that present United States legislation requires him to realize on whatever property he is legally able to. Thus, without any indications to the contrary in the treaty, under the present text he would be required to attempt to enforce some obligations which should rightfully be regarded as Japanese internal assets. Conversely he feels that he will have a great deal of difficulty and get involved in complicated litigation under the present language in collecting on obligations which he considers Japanese external assets. The legal uncertainty and ensuing litigation would hamper the revival of Japanese foreign trade, especially since different solutions of the problems might be reached in different allied countries.

It seems logical that the Treaty should remove this type of legal uncertainty; the addition proposed by the Attorney General is a careful formulation of the Department's policy adopted for Germany and while it would not solve all the problems it would narrow the area of legal uncertainty to a considerable degree.

4. There

4. There are the following considerations adverse to inserting the addition in the draft treaty at this time:

(a) the addition may not be acceptable to the British;

(b) the addition may expose the Japanese to inequitable claims and it should therefore be discussed first with the Japanese. This objection is not clear to me;

(c) the addition makes the Treaty somewhat more complex.

5. Possible alternative solutions are:

(a) maintain the present draft of Article 15 and ignore the suggested addition;

(b) maintain the present draft but raise the question of the addition with the British and with the Japanese;

(c) accept the Attorney General's addition as the United States position and attempt to get the British to agree;

(d) maintain the present draft but suggest that the addition along with other more detailed problems be covered in a separate Protocol.

6. By way of a compromise with the Attorney General's position certain offices in the Department propose that we should not include the addition, but modify the present text of Article 15, paragraph 1(a) 8 to read as follows:

"However, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all rights, ~~property~~ titles, and interests of Japan and of Japanese nationals (including juridical persons) in property which at any time between December 7, 1941, and the coming into force of the present Treaty ~~were~~ was subject to its jurisdiction, except:"

The Attorney General does not consider this modification satisfactory, and I understand that it would not be readily accepted by the British.

It is the view of the proponents of this formula that it would not enable the vesting Allied Powers to rely specifically on the Treaty in pressing obligations against Japan arising from evidence by documents seized outside Japan, but would give them a reasonably good case in the situations in which the Attorney General is justly concerned, namely where the obligations belong to United States corporations or branches of Japanese corporations in the United States. The Attorney General does not agree.

I have

I have some question whether the suggested formula would accomplish the purpose of the addition proposed by the Attorney General.

7. It would be my inclination to proceed on the basis of the present text and discuss with the British the desirability of a protocol which would include the Attorney General's addition and settle other problems which may arise in this complex field. If this recommendation is accepted an expert in this field should go to London and from there directly to Japan so that a protocol could be drafted with a view to becoming effective simultaneously with the Treaty. Simultaneously an intensive effort should be made in the Department to determine the effect of the Attorney General's addition outside of the United States and particularly in China.

Eric Stein

May 31, 1951

ARTICLE 15

Article 15 of Chapter V

(a) The Allied Powers recognize that Japan lacks the capacity to make payments in bullion, money, property or services which would enable Japan to maintain a viable economy, to meet its obligations for relief and economic assistance furnished since September 2, 1945, in furtherance of the objectives of the occupation, and also to make adequate reparation to the Allied Powers for war damage. However, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of Japan and of Japanese nationals (including juridical persons) which at any time between December 7, 1941, and the coming into force of the present Treaty were subject to its jurisdiction, except:

(i) property of Japanese nationals who during the war resided with permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected during that p period to measures not generally applied by the Government of the territory where the property was situated to the property of Japanese nationals resident in such territory; provided, however, that this provision shall not require more favorable treatment of Japanese property than is accorded by the Allied Power concerned to nationals occupied by Japan or Germany during the war;

(ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;

(iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(iv) property rights arising out of the resumption of trade and financial relations between the country concerned and Japan or acquired after September 2, 1945, pursuant to authorization by the country concerned before the coming into force of the present Treaty.

Property referred to in subparagraphs (i) to (iv) shall be returned subject to reasonable expenses for its preservation. If any such property has been liquidated the proceeds shall be returned instead.

(b) The right to seize, retain, liquidate or otherwise dispose of Japanese property referred to in paragraph (a) above shall be exercised in accordance with the laws of the Allied Power concerned, and the Japanese owner shall have only such rights as may be given him by those laws.

(c) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.

(Note:

TO: S - Mr. Allison

FROM: NA - Mr. Hemmendinger

SUBJECT:

The following comments are made upon open questions of the treaty which we were asked to make recommendations.

1. Section 14. There is a new draft of that part of Section 14 referring to Japanese property in Allied countries attached. This embodies a number of changes tentatively agreed upon with the British and some changes resulting from discussions with the OAP. It has not been concurred in by OAP and I just have an OAP draft which is considerably different. You will observe that this latest draft omits the controversial subsection 12. We have tentatively concluded that it is impossible to draft this exception in a way which will not unduly limit Japan's freedom of action, and we believe this would be an extremely difficult section to get general acceptance on. The change in the second sentence to read "rights and interests in property outside of Japan" should put Japan in position to dispute claims which involvedfollowing property into Japan.

Examination of SCAP reports on Japanese external assets reveals no declaration by the Japanese Government, financial institutions, copporations or individuals of property used exclusively for cultural or educational purposes in the European countries at way with Japan. Records are not available with respect to property in other countries at war with Japan. We have omitted the provision on practical grounds that any individual countries in which such property is located may well be willing not to exercise the right and that if they insist upon asserting it that it will probably make

make difficulty in accepting the treaty provision. Further checks should be made, however, before a definitive agreement is made because of the possibility that failure to include cultural and educational property in the accepted category may be contrary to the principles which the Department has asserted in other areas.

2. British Article 28. We still think it is preferable to omit from the treaty any provision that Japanese assets in the ex-enemy countries be used as reparations. ~~The~~ Any attempt to implement such a provision would be vexatious with respect to all the former ex-enemy countries and would be meaningless with respect to the iron curtain countries. We have enough controveries in those countries now without inviting any from which we cannot profit. It is highly probable that Italian counter-claims which we would want to permit Italy to assert would completely wipe out the Japanese assets in Italy. With respect to Germany, we have no basis on which to judge what part of the Japanese assets most recently estimated at $3,555,000 may be in the Russian zone. Precedent exists for the return of former enemy property in Germany to its owners. Such provision was included in the treaties with Italy, Hungary, Bulgaria, Rumania and Finland. It would be possible to provide for seizure of assets in Germany and not in the other countires, and if hard pressed, we could agree to such a provision by the difficulties of administration and of division to justify the British to receive and in any case they will have to come up with a better scheme than delivery to the four powers as a bone of contention.

3. As you will remember we advised the British delegation that we would be willing to insert an article in our draft on the end of the occupation, but wanted to check the language of Article 22 of the British draft. We do not yet have comments from the competent officers in the Department of the Army. It appears to us that paragraphs 2 and 3 require modification, first because they may not adequately have the possibility of continued use by agreement without compensation, and second, because the obligation to return property may be intensely broad. There may be some property such as technilogical information which has been seized by the occupation which we would not want to return or pay compensation. The following is a tentative revision and compression of paragraphs 2 and 3. "All Japanese property for which compensation has not already been paid and which was supplied for the use of the occupation forces and which remains in the possession of the forces at the coming into force of the present treaty shall be returned to the Japanese Government within the same period of 90 days or other arrangements made by mutual agreement."

4. German assets in Japan. We think it is on the whole preferable that this problem be treated in the treaty and the latest British revision of British Article 29 appears acceptable with addition of the following: "And pending the final ~~dispute~~ disposition of such assets to be responsible for the administration thereof." It may require elaboration but this can be done by exchanges of letters or memoranda with the Japanese outside the treaty.

5. Property Settlement in Connection with Cession of Territories. The only provision contained in the U.S. draft is Article 14 which treats properties in the ceded territory along with property in the countries at war with Japan. We have left it so in the latest revision, because there are no specific provisions which would enable the seizing powers to follow theassets into Japan. There remain, however, other questions which should be resolved either in the treaty or in separate agreements. For instance, ceded territories are probably entitled to some tangible properties in Japan such as records and cultural monuments which were publicly held. The British draft provides in Article 8 a renunciation on behalf of Japan and Japanese nationals of all rights, titles, and interests in and all claims in respect of any property which is or was situated in any of the ceded territories. We have not had adequate opportunity to study this question. Tentatively we think that property in ceded areas should be covered by a separate article, not in Article 14 and that the treaty provision should be sufficiently general to allow a specific agreement between the country concerned and Japan appropriate to the particular circumstances.

6. We are annexing papers on Article 14 of the UK draft dealing with the Congo Basin treaty and Article 17 of the UK draft dealing with the Bank for International Settlement.

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 31, 1951

FROM : NA - Mr. Johnson

SUBJECT: Transfer of Physical Custody Japanese Precious Metal and Diamond Stockpiles from Occupation to Japanese Government.

SCAP has proposed that physical custody of wartime Japanese-owned precious metal and diamond stockpiles be transferred from the Occupation to the Japanese Government in order to relieve for other assignments military personnel now assigned to guarding and warehousing property. It is estimated that action will require 90 days and SCAP plans to initiate steps towards transfer shortly after June 1. The Japanese Government will be directed to hold these stockpiles separate and apart from other assets in a blocked account and comprehensive periodic reports will be required from the Japanese Government to provide basis for continued staff supervision and such accounting controls as are necessary.

This is an administrative matter entirely within SCAP authority and was submitted to Washington only because SCAP believed political reactions might be explored in light of stated views on reparations expressed by several FEC member nations.

From discussions with Army it has developed that it will probably be impossible to accomplish transfer entirely without publicity. Therefore, NA has concurred with an Army telegram to SCAP recommending transfer to Japanese physical possession be accomplished with minimum publicity but that if SCAP believes press release necessary it will be specifically indicated that stocks remain under SCAP control and that no change in status is involved. The telegram emphasizes that it is imperative that the above points be stressed to the Japanese and that it be made clear that any action such as inventory by the Japanese on the assumption of any post-treaty use should be deferred or carried out with extreme discretion.

I suggest, in order to minimize the possibility of any adverse reactions, that, in your discretion, you or Mr. Dulles take advantage of any appropriate opportunity while you are in London to mention casually and confidentially to the British the contemplated action in this regard.

FE:NA:UAJohnson/pmh

SECRET

OUTGOING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

82 23
ORIGIN: FE
INFO
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E
Def.
CINCFOLAD,
CINCFE
ARMY
NAVY
AIR

CONFIDENTIAL

4073

Tokyo.

A-541, May 25, 1951

Mr. Toshio Inoue, Director of the Bank of Japan and his assistant Mr. Hatari have discussed with officers of the Department of State and the Department of the Army the problem of the possible attachment of the funds of the Bank of Japan if deposited in the United States. Mr. Inoue stated that principal object of this visit to the United States was to seek to resolve this question.

Mr. Inoue enquired whether there was an objection to the Bank of Japan's employing New York counsel to advise them on this matter. He was informed not only that there was no objection to such action, but that it would facilitate discussions with the Department of State which might be appropriate.

In an informal discussion of the legal problems involved, Mr. Inoue was informed that if funds were held in the United States by the Japanese Government in its own name or by the Foreign Exchange Control Board they would clearly be in position to plead sovereign immunity in case of attachment. If funds were held by the Bank of Japan for the Japanese Government, a plea of sovereign immunity would probably be sustained but subject to a scrutiny whether the funds were in fact segregated from other funds and title thereto held by the Japanese Government. If funds were held by the Bank of Japan in its own name, the plea of sovereign immunity would presumably not be sustained. While no definitive opinion was expressed, it was indicated that the Bank of Japan by itself would probably not be able to plead sovereign immunity. This would clearly be true if it were admitted to do business in New York as an agency, since such action would involve an express consent to be sued.

Mr. Inoue was also informed that in the event of suits based upon obligations of the Japanese Government, as distinguished from the Bank of Japan, such as claims based upon dollar bonds, the Bank of Japan would probably be able to defend the suits on the alternative grounds of sovereign immunity and if that ground were rejected, that the claim was against the Japanese Government and not the Bank of Japan

It was pointed out to Mr. Inoue that before a decision was made how to hold funds in the United States, examination would have to be given not only

to possible

Army

to possible claims of U.S. nationals but also to claims arising elsewhere in the world on which suits could be brought in the United States. As an example, the possibility of suits by the Thai government based upon wartime yen deposits in Tokyo was suggested. It was also pointed out that it might not be desirable to await the settlement of all possible claims because even an agreement with most of the U.S. bondholders would not be binding upon bondholders who did not see fit to enter into the agreement and thus claims could remain open for some time to come.

Mr. Inoue stated that he would proceed to retain counsel and would advise Governor Ichimada that it would be imprudent to establish accounts until the problem of claims had been fully investigated.

Mr. Inoue has conferred with officers of the SCAP, who have given him general information with respect to claims against the Bank of Japan filed with that office and have undertaken to supply photostatic copies.

You may wish to bring the foregoing to the attention of interested officers of FRB, OIA, SCAP.

ACHESON

FE:NA:Ellsworth:lb
5/18/51

Cleared with -

L/T - [redacted] Army - Mr. Foster

Army

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10-20-50
FORM DS-322

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USPOLAD, TOKYO 1641

TOPAD

FROM ALLISON

Dulles suggests you tell Yoshida (UNTEL 1996, May 10) that MAN treaty draft has already been subjected to certain changes as result of exchange of views with other members FEC and will undoubtedly be further altered upon receipt of additional comments. It is hoped that shortly after Dulles forthcoming visit to London it will be possible to produce more definitive draft and consideration will be given to making this available to public. It is believed no useful purpose WLD be served by having Yoshida show present draft to members of the opposition. Your statement to Yoshida summarized first sentence, second para REFTEL correct.

SA:Allison:mb
5/10/51

J.M. Allison

FE

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STANDARD FORM NO. 64

RAF

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Mr. Hemmendinger DATE: May 18, 1951

FROM : OFD - Mr. Young JPY

SUBJECT: Commercial Policy Article in Japanese Treaty

The following is a provision which OFD suggests be included in Article 13 of the Japanese Treaty. It would be a new (d), the present (d) becoming (e).

> (d) Pending the assumption of obligations under appropriate international agreements, Japan will facilitate the establishment of a multilateral system of international trade and payments, maintaining only such restrictions on her international transactions as are consistent with such agreements.

This is a statement of adherence to fundamental principles which underlie United States foreign economic policy and to which the United Kingdom and other countries are now formally committed, although they do not always live up to them. It means that pending assumption by Japan of obligations under the International Monetary Fund and GATT Japan would be bound by certain of the principles of these agreements. Japan would thus be subscribing to the principle of non-discrimination and competitive international trade as opposed to the system of state determination and control of the details of trade, state operations, extensive restrictions, bilateral deals and preferences and economic nationalism generally.

This would probably do no harm, but we think (a) it is too loosely drafted (b) ~~Reference~~ specifically to GATT and the IMF, which is what is intended, would be incorporation by reference of extensive and complex agreements. (c) it is partly covered by present draft (d) undesirable appear to impose this commercial policy under duress - Japan has indicated fully intent to adhere to GATT & IMF.

UK

OFD:JPYoung:mre

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 18, 1951

FROM : NA - Mr. Fearey

SUBJECT: Industrial Property

I believe the attached second memorandum from Mr. Rusch satisfactorily answers the questions Mr. Dulles raised regarding the proposed provision on patents and trade marks.

If we plan to send any further U.S. revisions to the British the proposed draft at the beginning of Mr. Rusch's second memorandum might be included. You will recall that it is stated in the note to Article 16 that the U.S. will prepare a draft on patents and trade marks.

You stated in connection with Mr. Rusch's first memorandum (also attached) that you were not yet clear on the status of copyrights. The position of the Department experts has for some time been that no treaty provision on literary and artistic property matters is necessary. The British had an annex on the matter but agreed (see note to Article 16) to prepare a briefer provision for inclusion in the treaty proper. In the concluding section of his first memorandum Mr. Rusch presents the U.S. arguments why no provision on literary and artistic property need be included anywhere in the treaty. What he says should enable us to determine, when we see the British draft, whether it serves any necessary purpose, and possibly to convince them that it does not.

FE:NA:RAFearey:re

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Robert A. Fearey DATE: May 18, 1951

FROM : BPT- William H. Rusch WHR

SUBJECT: Industrial Property Provision of Japanese Peace Treaty.

You have asked for further explanation of the following language as suggested in the paper I sent to you on May 9:

> "(b) Japan agrees to continue to accord to industrial property of nationals of Allied Powers the benefits afforded by Cabinet Orders 309 and 315, effective September 1, 1949; Cabinet Order 12, effective January 28, 1950; and Cabinet Orders 9 and 10, effective February 1, 1950."

The major benefits accorded by these Cabinet Orders may be summarized as follows:

1. Patents. Cabinet Orders 309 and 315 provide for the restoration of Allied patent rights which lapsed or were cancelled during the war; for the extension of their term for a period equivalent to the period from the effective date of war to date of restoration; and for the extension of the right of priority with respect to patent applications (without such extension patents could not be secured owing to loss of novelty of invention through patenting in other countries, use, or public disclosure during the war). Provisions were also made for continued use by independent inventors or their assignees of inventions patentable by Allied nationals because of the priority right extension; these provisions allow the negotiation of royalty-bearing contracts, permit appeals by either party to the Patent Office and subsequent appeals to the courts.

2. Trade-marks. Cabinet Orders 9 and 10 provide for the restoration of trade-marks cancelled during the war retroactively to dates of cancellation; provide that the act of cancellation shall in no way affect validity of the mark; provide that adverse use of the same or similar names prior to date of restoration shall not affect validity of the marks; provide for the disposal of goods belonging to others which bore the restored mark or an infringement thereof prior to date of restoration; extend duration of trade-mark rights for a period equivalent to that from effective date of war to date of restoration; provide that new trade-marks applied for by

Allied

Allied nationals shall be treated as they would have been at the effective date of war; provide for extension of right of priority as in the case of patents; and provide that the Allied owner whose trade-mark is restored or who acquires a new mark pursuant to the above provisions may apply for cancellation of infringing marks.

3. Trade names. Cabinet Order No. 12 provides that Allied nationals having trade names generally known in Japan may apply to the courts to stop the use of conflicting names subsequently adopted by others and provide, to the extent appropriate, additional relief analogous to trade-marks.

In order to avail themselves of the benefits of the Orders, Allied nationals must take certain actions by certain dates. These dates are March 31, 1951 with respect to patents and trade-marks and January 28, 1951 with respect to trade names.

In other words, unless an Allied national takes some step--such as filing an application or commencing a court action--prior to these dates, he has no remedy under the Orders.

It is not correct, however, to assume that by the date of ratification of the Peace Treaty all of the benefits of the act will have been received by Allied nationals. The following are several examples:

1. An Allied national may file a patent application prior to March 31, 1951, taking advantage of the extension of right of priority afforded him under the Cabinet Orders. The process of issuing a patent, however, involves an indeterminate period of time. It is essential, therefore, that the applicant's right of priority be recognized immediately before issuance of the patent, which may be after ratification of the Peace Treaty.

2. The Allied national referred to in (1) may succeed in obtaining his patent by proof of priority over an independent inventor. In this event it might be necessary for the Allied owner of the patent to negotiate a patent agreement with the independent inventor or a firm which commenced use through such independent invention. If the Allied owner is dissatisfied with the arrangements, he has an appeal first to the Patent Office and second to the courts. It is, of course, desirable that these appeal provisions, which could be time-consuming, continue to be available after ratification of the Treaty.

3. In order to secure cancellation of a trade-mark infringing on one which has been restored to him, an Allied national would have to bring an action for cancellation prior to March 31, 1951. The action, however, might take considerable time and, therefore, the owner might need to rely after the Peace Treaty on certain provisions of the Cabinet Orders which protect him against loss of rights arising from the wartime period of cancellation.

In view of the foregoing, it is my feeling that the language previously suggested is proper and that it would be undesirable to attempt to reword it in any way which might tend to limit it to actions fully accomplished prior to ratification of the Peace Treaty.

We have transmitted this proposed language to Tokyo to obtain the views of USPOLAD and ESS on its appropriateness, I would suggest that until these comments are received it would be desirable to proceed on the basis of the language presently suggested.

You have also asked my opinion whether it is necessary or desirable that this or any other special provision regarding industrial property be placed in the Peace Treaty. In my view the first paragraph of Article 16 would probably afford us some basis for protesting rescission of the rights granted to Allied nationals with respect to this type of property. Furthermore, it would seem rather unlikely that Japan would undertake to rescind any such rights. There is, nonetheless, a risk involved since Allied rights are based solely on these Cabinet Orders. I think that the question should be answered in terms of the degree of risk we are taking in drafting the Treaty on other problems of like character or order of importance. This is a question which I am not competent to judge because I am not familiar with the approach taken to other problems presented by the Treaty.

EDT:BPT:WHRusch:slb

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 11, 1951

FROM : NA - Mr. Fearey RAF

SUBJECT: Industrial Property

Rusch's underlying memorandum and proposed draft seem to cover the patent and trade mark problem very well. I have only one query and that is in regard to the second sentence of his draft insertion at the top of page 2. This sentence, requiring Japan to afford Allied nationals effective protection against unfair competition for the indefinite future, is inconsistent with the decision reached in the Department not to include vague, unenforceable stipulations regarding Japan's future conduct. All that is included on these lines is Japan's statement of intention in the Preamble to conform to internationally accepted fair trade practices. Even if the phrase "unfair competition" in Rusch's draft is qualified to refer only to the patent and trade mark field, as Rusch says he intended, it would seem inappropriate.

It should also be noted that Japan as a member of the International Convention for the Protection of Industrial Property signed at London in 1934 will be obliged to ensure fair practices in the industrial property field (see discussion under Article 28 in long draft treaty Black Book). Under the protocol accompanying the May 3 draft Japan will be required to resume its rights and obligations under this Convention. Rusch agreed when I pointed out the above that the matter might be adequately taken care of without his second sentence, but would of course still prefer the sentence in as a treaty commitment.

Rusch seems on solid ground in recommending that we not agree to include the Agreement on False Indications of Origin of 1934 in the list of conventions in the Protocol to which Japan must accede.

I have given a copy of Rusch's memo and this comment to Hemmendinger.

I'm not clear on status of "origin"

FE:NA:RAFearey:re

SECRET

U.S. Position with Respect to Industrial, Literary and Artistic Property

A. Industrial Property

1. Cabinet orders currently in effect in Japan provide satisfactorily for the restitution of Allied patent and trade-mark rights which may have been lost during the war and for the extension of their term for a period equivalent to the period from effective date of loss to date of restoration.

2. These cabinet orders were put into effect in Japan pursuant to SCAP directives issued in accordance with FEC Policy Decisions dated March 30, 1949 (Press Release 52) and July 28, 1949 (Press Release 56), to which representatives of the United States, United Kingdom and other FEC countries agreed. The Treaty should not include provisions conflicting with these arrangements or likely to cause confusion as to the status of the cabinet orders and implementing regulations issued thereunder.

3. The United Kingdom has suggested that the cabinet orders have not provided sufficient time for Allied nationals to take actions necessary to avail themselves of the benefits of the orders. The United States should take the position that sufficient time has been afforded. With respect to patents, the time allowed was originally from September 1, 1949 to September 1, 1950. This period was extended three times, finally terminating March 31, 1951. The diplomatic representatives in Japan of all countries maintaining such representation in Japan were notified directly; other governments were notified by the United States. The provisions also received wide publicity through FEC press releases, notices in professional patent and trade-mark journals, press releases of SCAP, etc. If, nonetheless, the United Kingdom feels that a further extension of time should be allowed, this should not be done through the Peace Treaty, but we should express willingness to consider requesting SCAP to direct a further time extension.

4. Since the expiration date of March 31, 1951 has passed--or any reasonable extension thereof will have passed prior to the Peace Treaty coming into force--there would be no advantage in including a clause in the Peace Treaty to permit Allied nationals to regain industrial property rights in Japan. A provision requiring Japan to continue to afford to Allied nationals the benefits of measures hitherto adopted would make it legally impossible, however, for Japan to rescind benefits granted before the effective date of the Treaty.

5. It

5. It is suggested, therefore, that a second paragraph reading as follows be included in Article 16 of the Treaty:

"(b) Japan agrees to continue to accord to industrial property of nationals of Allied Powers the benefits afforded by Cabinet Orders 309 and 315, effective September 1, 1949; Cabinet Order 12, effective January 28, 1950; and Cabinet Orders 9 and 10, effective February 1, 1950. Japan further agrees to continue to afford nationals of Allied Powers effective protection against unfair competition."

6. The above-listed cabinet orders relate, respectively, to:

Cabinet Order	Description
No. 309	Order for Post War Disposition of ~~International~~ Property Rights Owned by Allied Nationals
No. 315	Order for Registration of the Post War Dispositions of Industrial Property Rights Owned by Allied Nationals.
No. 9	Order for Post War Measures Releating to Trade-marks Owned by Allied Nationals
No. 10	Order for Registration of the Post War Measures Relating to Trade-marks Owned by Allied Nationals
No. 12	Order for Temporary Measures Concerning Trade Names of Foreign Nationals

The last sentence of the above-proposed language is added, since it is covered by SCAPIN 2042, pursuant to which Cabinet Orders 9, 10 and 12 were issued, but is not covered by the cabinet orders. Without such provision the protection of reestablished Allied trade-mark rights is incomplete, since protection of trade-marks cannot be achieved solely by registration and rights in trade

names

names are protected solely by laws on unfair competition. This sentence has been worded in such a way that the Japanese are left entirely free as to the legislation they may hereafter wish to enact and are not required to continue in effect any particular legislation drafted during the occupation. The inclusion of this general provision, however, would provide a specific basis for representations should any future Japanese laws or implementing procedures involve violation of Allied trade-mark and trade name rights. In connection with this sentence, it should be further noted that this sentence will afford protection to the United States as well as to other governments. The Protocol to the Treaty, in stating that Japan will accede to the Arrangement of Madrid of 1891 Concerning the Prevention of False Indications of Origin, as amended at London in 1934, benefits the United Kingdom and Allied countries to some extent in this connection. It does not, however, benefit the United States, which is not a party to this Agreement.

7. The United States should reserve the question of its approval of inclusion in the Protocol of a provision that Japan will accede to the "Agreement of Madrid of April 14th 1891 For the Prevention of False Indications of Origin of Goods, as Revised at London, June 2nd 1934." (The Treaty should as a technical detail refer to this agreement as quoted above rather than as presently cited.) The United States is not a party to this agreement, would not benefit by its application to Japan, and has material objections to it. While we should not oppose Japan's acceding to it, we should not insist on requiring Japan's accession in the Peace Treaty if, for reasons similar to our own, Japan finds it objectionable. It would be preferable from our viewpoint to rely upon the statement regarding unfair competition stated above for protection of the type afforded by the Arrangement of Madrid.

B. Artistic and Literary Property

1. The United States should take the position that it is unnecessary to provide Allied nationals with a period of time to enable them to accomplish acts for obtaining or preserving rights in literary and artistic property which were not capable of accomplishment owing to the existence of a state of war on the grounds that:

(a) No direct action was taken by the Japanese Government during the war with respect to Allied copyrights in Japan.

(b)

(b) No acts need be performed to acquire copyright. Protection of copyright is automatic, at least with respect to publications in the Berne Union, and does not involve formalities such as application or registration with government authority.

2. The United States should take the position that it may be unnecessary to provide a period during which Allied nationals may institute proceedings in Japan against persons who infringed their rights in artistic and literary property on the ground that such suits can now be maintained without special provision therefor since ownership of copyright was not disturbed during the war. (We are now checking this point with SCAP.) 1/

3. The United States should take the position that extension of time of copyrights for a period corresponding to the period from the effective date of war to some postwar date is unnecessary, since it would constitute an insignificant addition to the present term of copyright, which is life and fifty years.

4. The United States should be prepared, if requested by the United Kingdom, to consider the extension in Japan of the ten-year term provided for translation rights under the Berne Convention for a period equivalent to that lost during the war period. (We are now obtaining further data on the implications of such a provision from SCAP.) 1/ Since the United States is not a member of this Convention, such an extension would be of no value to us. Rather than include such a provision in the Treaty, however, we should take the position that it would be preferable to handle the matter through directives to the Japanese Government. Resulting orders of the Japanese Government could then be incorporated in the list of orders referred to in the proposed addition to the Treaty set forth in Part A, paragraph 5, above.

1/ Inasmuch as the United States has never enjoyed substantive copyright protection in Japan, it had not been necessary to consider these problems in connection with American interests.

EDT:BPT:WHRusch:slb
5-9-51

125

May 16, 1951

TO: John Foster Dulles

FROM: John M. Allison

SUBJECT: Talk with Sir Oliver Franks Regarding Japanese Peace Treaty

In addition to any general remarks which you may wish to make regarding your trip to London and the general spirit back of our concept of the Treaty, it is suggested you may wish to discuss briefly the following specific points:

1. U.S. will accept U.K. positions on War Crimes.

2. U.S. accepts U.K. redraft of Article on Fisheries with exception of U.K. substitution of word "states" for "Allied Powers".

3. U.S. is inclined to accept U.K. idea that Korea should not be a signatory and is drafting an article which will give Korea certain rights under the Treaty.

4. U.S. is preparing a redraft of the Article on Civil Aviation which more nearly accords with U.K. point of view and will submit it shortly.

5. U.S. agrees that Japan should relinquish its position of a director in the B.I.S. but believes that question of sale of shares should be left up to private negotiation.

6. U.S. believes that with respect to the Congo Basin Treaty Japan should receive the same treatment as Italy.

7. U.S. cannot recede from its position that gold and precious metals in Japan should not be made available for reparations.

8. U.S. is preparing a redraft of Article 13 of Joint U.S.-U.K. Draft on Commercial Treaties and will submit it for U.K. consideration shortly.

9. As

9. As indicated by Allison to Tomlinson the U.S. wishes to restore the paragraph waiving further reparations claims by Allies and desires to re-introduce a time limit in the adherence clause.

10. U.S. is still considering its position with respect to treatment of Japanese assetsin neutral and ex-enemy countries. Suggestion might bemade that Japan be urged to agree to having such assets turned over to U.N. Children's Fund or some similar international benevolent agency for use in Asia as partial recompense for devastation caused by Japanese troops.

11. With respect to Formosa problem appreciation should be expressed for Morrison's statement as indicating a move in the right direction and the hope expressed that in view of Morrison's statement that the disposal of Formosa should not be permitted to hold up a Japanese Peace Treaty, that agreement can be reached speedily on this matter.

12. With respect to participation of Communist China in Japanese Peace Treaty, suggestion might be made that neither Communist nor Nationalist China be original signatories. The hope should be expressed that if this commends itself to the U.K., the latter for obvious reasons allow U.S. to decide how to lay the ground work and make the eventual announcement.

cc: FE - Mr. Rusk
BNA - Mr. Satterthwaite

S:JMAlliaon:mb

STANDARD FORM NO. 64

CONFIDENTIAL

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Mr. Farey

DATE: May 16, 1951

FROM : NA - Mr. Overton

SUBJECT: Repatriation of Japanese from Soviet-Controlled Territory

With reference to our recent conversation concerning Japanese repatriation, I am submitting herewith the current statistics of the Repatriation Section of the Japanese Foreign Office, which is at present compiling the results of a nation-wide survey. These figures, which have been given to me informally by a Japanese Foreign Office man who is at present on a visit here, have not been cleared within the Foreign Office or shown to SCAP; therefore they should be treated in strictest confidence and not shown outside the Department. They are considerably higher than the generally-accepted estimate of 370,000 cited at the U.N. hearing.

In the event that Mr. Dulles desires to make any public remarks at this juncture concerning Japanese repatriation, I would suggest that it be along the following lines:

"On August 31, 1950 the Japanese Government estimated on the basis of data then available to it that some 370,000 Japanese who fell into Soviet hands at the conclusion of hostilities had not been returned to Japan or otherwise accounted for by the Soviet authorities. Nearly one-half of these persons were military and naval personnel; the rest were civilians, including women and children. Since that date the Japanese Government has been conducting a new survey of the problem, and on the basis of additional data received from families and other interested persons, it has already determined the names of 323,973 of these persons. There is reason to believe that when this survey is completed, it will be found that the actual number of missing persons considerably exceeds the previous estimate of 370,000."

FE:NA:DWOverton:clh

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Japanese in Soviet-Controlled Areas Who Have As Yet Not Been Repatriated Or Otherwise Accounted For By The Soviet Authorities

	Army and Navy	Civilian	Total
Siberia	100,000 (35,687)	20,000 (460)	120,000 (36,147)
Manchuria and Kwantung	62,000 (18,497)	198,000 (112,413)	260,000 (130,910)
North Korean	11,000 (6,801)	33,000 (17,459)	44,000 (24,260)
Sakhalin and Kuriles	4,000 (294)	9,500 (2,771)	13,500 (3,065)
TOTAL	177,000 (61,279)	260,500 (133,103)	437,500 (194,382)

Note: Figures in parenthesis indicate number of known dead. Since the Soviet authorities have never transmitted any information concerning deaths, the Japanese Government has been forced to rely on information given by returning repatriates.

FE:NA:DWOverton:clh

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US PROPOSED TREATY TEXT: (Article 9)

.....

(c) Japan renounces all rights, title and interests acquired under, and is discharged from all obligations resulting from, the Agreement between Germany and the Creditor Powers, of January 20, 1930, and its Annexes, including the Trust Agreement, dated May 17, 1930, the Convention of January, 1930, respecting the Bank for International Settlements, and the Constituent Charter and the Statutes of the Bank for International Settlements. The above mentioned rights, title and interests shall not be deemed to include the 19,770 shares of the Bank for International Settlements presently owned by Japanese financial institutions. Japan undertakes to notify to the Ministry of Foreign Affairs in Paris within six months of the coming into force of the present Treaty, her renunciation of the rights, title and interests referred to in this paragraph.

.....

STANDARD FORM NO. 64

SECRET

Treaty Changes

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 15, 1951

FROM : NA - Mr. Hemmendinger

SUBJECT: Comments on Articles 5, 15, and 18 of the Draft Treaty

125

Article 5

It is recommended that paragraph (a) of Article 5 be revised to read as follows:

> "Except as may be otherwise agreed by the Allied Power concerned and Japan, Japan renounces all rights, titles and interests of Japan and its nationals (including juridical persons) in, and all claims in respect of, property situated at the end of hostilities in the territories mentioned in Articles 2 and 4 which has been seized, vested or disposed of by the Allied Power concerned and undertakes to deliver to the Allied Power concerned records, archives and similar property pertaining directly to the government and administration of the areas ceded or renounced."

No change is recommended in the other paragraphs of Article 5.

The object of the suggested changes is to make the provision more definite. Unlike property in the countries which were at war with Japan (Article 15) there should be no property in ceded or renounced territories which the Power concerned has not already taken under control in some manner. The expression "at the end of hostilities" is used rather than a specific date because the date which would be obviously appropriate is September 2, 1945. The use of this date would involve us in issues of good faith with Korea, however, because the vesting decree for Japanese property in Korea enacted by U.S. military government was applicable to property in Korea on August 9, 1945. The Koreans have been pressing a claim to ships which were removed from Korean waters between August 9 and September 2. If we were concerned only with the Korean situation, it might be fitting to use the date August 9. The trouble with this date, however, is that it might give various governments claims to property removed to Japan just before the surrender, which the Japanese had a perfect right to remove. The proposed language will not be determinative of the Korean claims, but will give both sides enough support so that a reasonable compromise should be possible.

With respect to the Note on Japanese liability for debt, see my comment on Article 18.

Article 15

SECRET

Article 15

It is recommended that sub-paragraph (i) be revised to read as follows:

> "property of Japanese nationals permitted to reside during the war in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected during that period to measures not generally applicable to the property of Japanese nationals resident in such territory provided, however, that property shall be returned hereunder on a basis no more favorable to Japanese nationals than is applied by the Power concerned to nationals of countries occupied by Japan or Germany during the war."

and that the full paragraph following sub-paragraph (iv) be revised to read as follows:

> "Property referred to in this paragraph shall be returned ~~net of any expenses incident to~~ subject to charges for its preservation. If any such property has been liquidated the proceeds shall be returned instead."

These two changes were proposed by the OAP and should be acceptable to the British. The British have reservations on reparations clauses of their original draft, and in addition have informed me (telephone call from Mr. Pridham) that they cannot agree to the exemption of the personal property of diplomats, which was not done in the Italian or Hungarian treaties or in the Treaty of Versailles. They also believe the reference to the return of proceeds if property has been liquidated should be omitted. Mr. Pridham indicated however that he doubted that his Government would insist upon these deletions.

This leaves as the principal open question on Article 15, the application of the Article to assets located in Japan, which was the subject of the original United States sub-paragraph (iv) and which the United States reserved its position on at the close of the British talks. There are three main possibilities:

1. Acceptance of the Article in its present form with no mention of this problem. Presumably the British would prefer this and it should be acceptable to the OAP if we insisted. This course would, however, expose Japan to a variety of claims based upon instruments located outside Japan with the possibility, at least, that governments could rely on the treaty provisions in asserting the claims. In our opinion, it is neither logical or equitable for governments to assert claims based upon the chance location of instruments to property or debts which are within the control of the Japanese government, and such action would be inconsistent in the main with precedents which have been developed in connection with the disposition of German assets. It is recommended that this course not be accepted.

2. The OAP

2. The OAP has proposed the following exception in addition to the present exceptions to paragraph (a):

> "obligations owed by Japan, by enterprises organized under its laws or by natural persons resident therein, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof, provided that such property, rights or interests were not
>
> a. property, rights, or interests wherever located owned at any time on or after December 7, 1941 by an enterprise organized under the laws of an Allied or Associated Power, or
>
> b. property, rights or interests wherever located which were at any time on or after December 7, 1941 assets of a branch or other similar office within the territory of an Allied or Associated Power of an enterprise organized under the laws of Japan;"

This is a careful formulation of the precedent which has just been developed with respect to German assets, as the United States position. It involves essentially acceptance of the State Department position that claims based upon securities located outside Japan should not be pressed but excepts assets belonging to U.S. corporations and branches in the United States of Japanese corporations. The general reason for this is that the claims of creditors are involved in these situations, but this would not be true in every case. The main reason for the adoption of this position for Germany is that in the case of Stinnes properties it appeared impossible to resolve the conflicting interests by any other course.

In my opinion, and in the opinion of officers of L/E, this position would still expose the Japanese to inequitable claims, though there has been no estimates of just what amounts would be involved. It may be desirable for this course to be discussed with the Japanese to see whether they consider it at all reasonable. It does have the advantage of laying down a fairly clear formula. It is doubtful however whether the British would go along with it. If this clause is accepted the whole of Article 15, with the changes indicated above, is acceptable to the OAP.

3. The third

3. The third course would be to omit any detailed formula, and to modify the second sentence of paragraph (a) to read as follows:

> "However, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all ~~property,~~ rights, titles, and interests of Japan and of Japanese nationals (including juridical persons) in property which at any time between December 7, 1941, and the coming into force of the present Treaty were was subject to its jurisdiction, except:"

Although this course would not be readily accepted by the British or by the OAP it is believed to be preferable and it is recommended that an effort be made to have it adopted. By stating the right to seize in terms of property within the jurisdiction of the respective Powers it leaves disputed questions to be resolved, ~~but~~ in the last analysis, by power over the asset, which is believed to be the right standard. This formula would not enable vesting powers to rely specifically on the treaty in pressing claims against Japan arising from documents seized outside Japan, but would, it is believed, give them a good case in the situations with which our OAP is justly concerned, namely where the assets belong to U.S. corporations or branches of juridical entities in the United States. The existence of the corporations or branches as entities under U.S. law supports an argument that the assets of such bodies are within U.S. jurisdiction. It should be noted that the language suggested is closer than the present language of Article 15 to the language of Article 5, which in this respect is based upon the British draft (Article 8).

Article 18

Article 18

It is recommended that the Note reserving our position on Japanese liability for debts in respect to property in renounced or ceded territories be dropped in further discussions with the British, but that the British be informed that our minds are not closed on this question if the Japanese see fit to raise it.

The problem is whether Japan should continue liable for obligations of the Oriental Development Company, Ltd., which financed the development of agriculture in Korea; the Taiwan Electric Company, Ltd., which financed electric power development in Formosa; and of the South Manchurian Railway. See discussion of this problem on pages 6 and 7 JAPQ D-3/7. The total amounts involved are believed to be about $24 million and £5 million sterling, including accrued interest.

Bonds of these issue were originally guaranteed by the Japanese Government and in addition became direct obligations of the Japanese Government by virtue of Japanese wartime law, which also converted locally held bonds to yen obligations. It can be argued that there is no basis for relieving Japan of the obligation, and that the Japanese Government has a claim against the corporations which is wiped out by the renunciation of claims in Article 5 (a). On the other hand, the Japanese could argue equitably that the monies borrowed were used for development in ceded areas and that the obligation should be assumed by the governments getting the benefit of the assets. If an orderly settlement of claims with respect to ceded territories were likely, and if these governments enjoyed good credit such a disposition would make sense. As it stands, however, the bondholders are likely to be left in the lurch if Japan does not recognize the obligations, and the Japanese Government may desire to do so to support her international credit.

It is recommended that this problem be discussed with the Japanese at the earliest opportunity.

FE:NA:NHemmendinger:lb

DEPARTMENT OF STATE

THE LEGAL ADVISER

May 14, 1951

S - Mr. Dulles

ARTICLE 12 of May 3 DRAFT OF JAPANESE TREATY

1. It is believed that United States acceptance of the first sentence of the British draft of Article 21, War Criminals, might forestall any future Japanese contentions as to lack of jurisdiction, irregularity of procedure, or illegality of judgment or sentence, as respects proceedings of the International Military Tribunal or the Allied War Crimes Courts. It also serves to impose on Japan the function of carrying out the sentences, unless interrupted by clemency or parole, as provided by the second sentence.

2. The omission of the word "pardon" in the second sentence is not important. While L is of the opinion that a power of pardon is technically desirable, for use in the case of newly discovered evidence exculpating the prisoner, it is not necessarily to be created by this Treaty, and can be a subject of international agreement in the unlikely event of such evidence. It may be inadvisable to suggest the possibility of pardon by its insertion in the present treaty.

3. It is recommended that the United States include the first sentence of British Article 21, and omit the word "pardon" in the second sentence.

Conrad E. Snow

Seems OK to me.
Dean

L:L/FE:CESnow:lml

STANDARD FORM NO. 64

CONFIDENTIAL

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 2, 1951

FROM : NA - Mr. Fearey RAF

SUBJECT: Site of Peace Conference

The attached two letters and proposed replies regarding an invitation of the city of San Francisco to hold the Japanese peace treaty signing ceremony there are a reminder that selection of Tokyo may arouse considerable criticism in San Francisco and elsewhere in this country. Many will fail to see why the "honor" should fall to Tokyo rather than to a city of one of the countries which won the war. I must say I wonder a bit myself, particularly now that General MacArthur is gone and the old purpose of letting him preside over the ceremony as the climax before his departure for the U.S. no longer exists. Of course the ceremony is not going to be a full blown peace conference as Mayor Robinson imagines. Probably Tokyo is the best place for the type of conference and type of treaty we have in mind, particularly if many countries designate their ambassadors at Tokyo as their representatives.

See Knowland & Mayor Robinson

FE:NA:RAFearey:re

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JA

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BANK FOR INTERNATIONAL SETTLEMENTS

Current Problems-Japanese Membership

General Comments:

The operations and influences of the Bank for International Settlements constitute one aspect, if a minor, aspect, of the financial net-work in Europe and the rest of the world. In spite of strong opinions in 1944 that the Bank should be liquidated ~~in~~ expressed in 1944 in a Resolution at Bretton Woods, the Bank continues to exist, to make profits, and to perform useful functions. While the future of the Bank and the scope of its activities are uncertain, attention needs to be given to certain general problems and principles which may arise.

One such current problem, which brings into focus more general questions, is the future participation of Japan. It is understood that the British are proposing, in ~~its~~ draft treaty for Japan, the transfer of shares from Japan as a part of the peace settlement and the exclusion of Japan from membership. This proposal is based in part on the theory that the Bank should be European rather than world-wide in scope.

The Status of Japan:

From the beginning the Japanese participated in the conferences and agreements setting up the Bank. They were represented at the Reparation Conference in 1929 and at the Baden-Baden Conference in 1930. They signed the Trust Agreement, Hague Agreement, and the Convention with Switzerland and have, thus been a part to the international treaties bringing the Bank into existence.

The Japanese subscribed to the capital of the Bank to the extent of 4,577,067 Swiss Gold Francs. This subscription to the shares of the Bank corresponded to 4% (page 38) of the total by the eight founding governments (the U. S. and Japan were represented by private banks, Japan by the Industrial Bank of Japan. For legal reasons they could not participate as governments. Japan as a government, however, participated in the treaties.) Japan like Germany is presumed by the Swiss, and by the management of the Bank, to own valid rights and to be competent to exercise significant functions as soon as the status of the Japanese Government is made clear and sovereignty restored by a treaty. In the case of Japan the situation should in fact be easier to clarify than in the case of Germany because the country has not been partitioned and the Soviets need not be a party to the treaty.

The Attitude of Various Countries to the Question:

Little is known here as to whether the other government members of the B.I.S. ~~wish to~~ have views on the Japanese membership in the Bank for International Settlements. It has been reported by the British but not confirmed from Basle, that the B.I.S. Board of Directors is willing to have Japan

dropped.

were to be made which would permit Japan to participate through other agencies more effectively than through the Bank for International Settlements. It may even be possible that economic and commercial interests would be served by Japanese participation in the Bank in the period of reconstruction. The views of the B.I.S. on these questions would be useful.

RECOMMENDATION

It is suggested here that further information be secured without raising the issue in a formal way, that the British position be explored and the attitudes of certain other main member countries and the B.I.S. be ascertained. Further study needs to be made also of the legal and financial status of Japan in the B.I.S.

On the basis of information presently available it appears that the U. S. would be setting an undesirable precedence and would be going counter to certain broad policies with regard to world financial relationships if Japan were to be excluded from the Bank for International Settlements prior to or at the time of the signing of the treaty.

Action on this question should be deferred until the various economic, legal and political aspects have been further explored.

EUR:WE:ELDulles:emh
May 3, 1951

dropped. It is assumed that in view of the relative unimportance of the question the British are alone in having taken a position on the matter. Presumably the British point of view is dictated by two considerations; one as indicated above a preference on their part for lessening the participation of Asiatic countries in European affairs, and two, a desire to have the Japanese shares available as an additional source of compensation or reparation. However, a willingness to give adequate compensation for the shares would eliminate point two.

There seems little basis for United States support of the British position. It is quite likely that in view of the small importance of the question that informal conversations might lead them to change their views. This again is a matter which might usefully be explored.

Major Considerations in Japanese Membership:

The following four considerations which seem to support the view that Japan should not be excluded from membership in the Bank for International Settlements:

1. Since Japan is a signatory to the treaties and agreements setting up the Bank, exclusion of Japan prior to the signing of the treaty might be deemed an infringement of solemn obligations undertaken by the other signatory governments and undue pressure on Japan. For the U. S. to urge such a course would almost certainly lead to protests by the Swiss who stand in some measure as guardians of the Convention and Statutes.

2. Japan holds, as of pre-World War II, the rights represented by the shares a part of the Guarantee deposits, and other deposits in the Bank which have been immobilized during the war. There would seem to be little advantage in expropriating these rights. The question of adequate compensation cannot be settled without full consideration.

3. From the point of view of American policy in general, it might be unfortunate at this time to have it appear that this government desired to exclude Japan from any international organization in which it might appropriately participate. The view that this government and certain other governments wish to maintain barriers between eastern countries and other countries based on racial prejudices, tradition, or economic power might support hostile propaganda exploiting the sensitive susceptibility of certain eastern countries.

4. The exclusion of Japan from the Bank for International Settlements would involve a number of complex legal arrangements which might not be completed in orderly fashion for several years.

Later adjustments of the problem would not be excluded by the failure to act with regard to Japan now if for any reason other financial arrangements

were to

May 3, 1951

TO : NA - Mr. Fearey

FROM : L/T - Mr. Whittington

SUBJECT: Japan and the Congo Basin Convention

The renunciation by Japan of all its rights and interests as a party to the convention of St. Germain-en-Laye of September 10, 1919 will have the effect of transferring Japan from the category of countries having a special status in the Congo Basin area to the status of being one of the members of the international community entitled only to the benefits established by the convention in favor of the commerce of all countries.

The rights granted parties to the convention include (1) full freedom of trade within the bounds of the Conventional Congo Basin as defined in the Berlin Act of 1885; (2) merchandise belonging to their nationals to have free access to the interior of the region, free from the imposition of differential treatment on importation or exportation, with transit remaining free from all duties, taxes, or dues, other than those collected for services rendered; (3) "without distinction the same treatment and the same rights as the nationals of the Power exercising authority in the territory" with regard to the protection of persons and effects, the acquisition and transmission of movable and real property, and the exercise of professions; (4) equal treatment in the award of concessions for the development of the natural resources of the area; (5) free navigation of all the rivers, lakes, and outlets, and perfect equality in the use of roads, railways, and canals, as well as in the payment of toll charges; and (6) nondiscriminatory treatment in the use of facilities.

The only benefit which States not parties to the Convention derive therefrom is the benefit set forth in Article 1 that "The trade of all nations shall enjoy complete freedom . . . in all the regions forming the basin of the Congo and its outlets." In The Oscar Chin Case

(Per. Ct.

(Per. Ct. Int. Jus., Dec. 12, 1934, ser. A/B, no. 63), the Permanent Court of International Justice held that the meaning of the right of "freedom of trade" in the Congo Basin convention was as follows:

> "Freedom of trade, as established by the Convention, consists in the right -- in principle unrestricted -- to engage in any commercial activity, whether it be concerned with trading properly so-called, that is the purchase and sale of goods, or whether it be concerned with industry, and in particular the transport business; or, finally, whether it is carried on inside the country or, by the exchange of imports and exports, with other countries."

With respect to the right of freedom of trade, it is our view that Japan, in the event it is required by the peace settlement to denounce the Congo Convention, could not be deprived of its rights under Article I by a subsequent amendment of the convention or the formulation of a new Congo convention unless all parties to the present convention agree to the amendment or to the new convention. This conclusion is based upon a basic principle of treaty law than an existing treaty may not be amended or replaced by a later one unless express consent has been given to such action by all the parties to the existing treaty. Since the United States is a party to the present Congo convention, it would appear that Japan will not lose the right of freedom of trade granted thereunder by Article I as long as the United States is unwilling to concur in such a deprivation.

L:L/T:JWFoley:bel

May 4, 1951

MEMORANDUM TO SA/M - Mr. McDermott

FROM - S - Mr. Allison

SUBJECT - Talks with United Kingdom on Japanese Peace Treaty

The talks which we have been having over the past ten days with the British Foreign Office officials on the Japanese Peace Treaty are concluding today. While it has been decided not to issue any formal statement concerning these talks there is no desire to dodge questions about them. There is given below general information about these talks which you can use in answer to any press questions you may received.

The talks were on an official level and were without final commitment to either government. As a result of the talks there has been considerable progress made in bringing the points of view of the two governments closer together. It has been found in many cases that both the United Kingdom and the United States had exactly the same thing in mind but had been expressing it differently so that it has now been possible to produce language acceptable to both. While the inevitable result will be a lengthening somewhat of the original American draft, nevertheless it will still be probably the shortest peace treaty ever devised to end a great war. In view of the fact that the United Kingdom delegation must report to its own government and obtain Cabinet approval over actions taken by it during the discussion, it is not considered appropriate to go into detail at this time concerning various points of difference. However, it may be said that a conciliatory and cooperative spirit was manifested on both sides and that real and definite progress was made. If specific questions are asked concerning the problem of Communist China and Formosa, the statement could be made that while these subjects were naturally discussed no attempt was made by the officials concerned to reach any solution of the problems at this time. The main purpose was merely to make absolutely clear to each other exactly what was in each other's minds on these problems. Naturally the final solution of such difficult questions must be reached by the highest authorities in the respective governments.

If the question comes up as to who took part, you could say that the chief British negotiator was Mr. Charles H. Johnston, head of the Japan Department of the Foreign Office. He was assisted by legal and economic advisers from London as well as members of the staff of the British Embassy in Washington. The chief American negotiator was John M. Allison, Deputy to Mr. Dulles who was assisted by legal and economic officers of the State Department.

S:JMAllison:kg

Responsibility for Initiation of Positions on Certain Provisions

of May 3 Japanese Peace Treaty Draft

Mr. Snow

Article 9 (St. Germain-en-Laye) (L/T is preparing a clarification of its memo of May 3)

Article 12 (War Criminals, in light of note left by Mr. Tomlinson)

First Protocol (composition of list of conventions)

Mr. Hemmendinger

Article 5 (property in ceded territories)

Article 7, para. b (disposition of property held by withdrawing occupation forces)

Article 9 (Bank for International Settlements and St. Germain-en-Laye, with Mr. Snow)

Article 15 (following of assets into Japan)

Article 16 (patents and trade marks--Mr. Rusch is preparing a memorandum and proposed draft)

Article 19 (waiver of claims by Japan), e.g. Japanese claims v. Germany

Mr. Walker

Article 13 (Commercial provisions--is now preparing a comment on Article 13 with suggested revisions)

Mr. Radius

Article 14 (Civil aviation--is now preparing ~~an~~ analysis of British position with recommendations)

Articles 8 and 23, para. b, also require revision, and a provision regarding Korea needs to be prepared.

Mr. Allison

137 Reparations

April 13, 1951

Memorandum to: Mr. Dulles

from: Mr. Allison

I do not believe that the Japanese Government has made a specific commitment with regard to what steps it is prepared to take through domestic legislation to make remuneration for loss of Allied property in Japan as is now provided for in the Peace Treaty. I suggest you may wish to discuss this matter in more detail with the Japanese while in Tokyo.

S:JMAllison:dad

Copy to Mr. Fearey

STANDARD FORM NO. 64

CONFIDENTIAL

138 Jpt - General

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: April 18, 1951

FROM : FE - Mr. Sullivan PBS

SUBJECT: Organized Labor in Japan and the Peace Treaty.

File

For your information I am enclosing herewith a copy of a memorandum that I recently prepared concerning the action of the recent convention of the General Council of Trade Unions of Japan (Sohyo) regarding the affiliation with International Confederation of Free Trade Unions (ICFTU). This action, as I point out in the final paragraph of my memorandum, was in all probability closely tied to another resolution, that dealing with the Social Democratic Party position on overall peace, neutrality, re-armament, etc.

I am also enclosing a long excerpt from a letter recently received from John Ballew, the Labor Attache in Tokyo. In this letter he sets down in some detail the developments at the Sohyo convention relating to the peace principles of the Social Democratic Party. In my estimation you might wish to give consideration to recommending to Mr. Dulles that he arrange a formal conference with the outstanding trade union leaders of Japan for ~~the~~ discussion on this issue of overall peace. Val Burati of the Labor Division would be the best person to consult as to who might be invited to such a meeting. In my estimation, a frank and hard-hitting presentation by Mr. Dulles to these labor leaders concerning the absolute impossibility of an overall peace treaty being achieved might have a very salutatory effect not only in labor circles but among the fringe elements of the Social Democratic Party itself.

Attachments:

As stated.

CC: FE - Mr. Rusk
NA - Mr. Johnson

FE:PBSullivan:vp

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NA - Mr. Johnson

March 28, 1951

FE - Mr. Sullivan

Sidelight on the Recent Convention of the General Council of Trade Unions of Japan

The attached letter (copy) addressed to Mr. J.H. Oldenbroek, General Secretary of the International Confederation of Free Trade Unions, by Val Burati, the Chief of the Labor Relations and Education Branch of the Labor Division, ESS, SCAP, is a behind-the-scenes explanation of the failure of the Japanese General Council of Trade Unions--Sohyo--to formally affiliate with the ICFTU. This failure to affiliate must definitely be considered as a setback, though probably temporary, of our plans for firmly cementing the labor movement of Japan to the non-Communist world labor movement. The fact that this was a setback is indicated by the play given to this action by Communist propagandists in China and elsewhere.

In view of the detail given by Burati and the consequent length of the letter, I should like to summarize the more important points made:

1. The vote for affiliation with the ICFTU was 149 in favor to 79 against. Since a two-thirds vote was necessary, the motion was lost.

2. The unions of industrial workers, with one exception, favored affiliation. Opposing were the larger government workers' organizations, including those of the Teachers, the National Railways, and the Postal and Telecommunications. The one industrial union opposing was the New Congress of Industrial Organizations (Shin Sanbetsu). The unions opposing are those most directly subject to the influence of the Social Democratic Party, whose policy of "neutrality" appears to include opposition to Japanese labor's affiliation with a definitely anti-Communist group, at least at this time. (Shin Sanbetsu's attitude is involved and contradictory. It opposes the majority position vigorously on nearly all issues, and really should not be in Sohyo, as its main purpose appears to be to hamstring the body.)

3. The leaders of the government workers' unions who opposed affiliation with the ICFTU did so mainly because of (a) allegiance to the principles of the Social Democratic

Party,

CONFIDENTIAL

Party, and (b) due to some resurgance of Communist influence among the government unions during the past year--a growth significant enough that the leaders of these unions preferred to follow the line of the Social Democrats and oppose this resolution in order to protect their personal voting strength. (These unions are still in the non-Communist camp, but the Communist-influenced members apparently felt much more strongly on this issue than the non-Communist members).

4. While the left-wing of Sohyo succeeded in voting down affiliation with the ICFTU, they lost out on a number of other significant issues and on balance have lost ground. Most important, Sohyo voted to go in the direction of becoming a strong federation rather than remain the loose council of unions it has been up to the present time. It also voted to abolish the previously required unanimous rule for action by the Central Committee. Both of these were defeats for Shin Sanbetsu and the extreme left who wish to keep the organization weak and to maintain the veto power possible under the unanimous rule. Another big gain accrues from a very much improved slate of new officers.

5. The non-government workers groups were extremely angry over the outcome of the vote on ICFTU affiliation and are determined to move ahead and secure this affiliation. They severely criticized the heads of the unions who opposed affiliation and are planning to call a new convention sometime in April or May in order to push through ICFTU membership. Burati believes that by that time they will have set things up in such a way that affiliation will be secured.

Of special interest are the comments made to Oldenbroek by Mr. Burati in the paragraph beginning at the bottom of page 4.

In summary, the information contained in the letter sets the disappointing action of Sohyo on the ICFTU in a somewhat more encouraging light. In my opinion, such a vote would not have been possible had it not been tied in with the heated peace treaty and neutrality principles of the Social Democratic Party. Regarding this "neutrality" issue, while the outstanding leaders of Sohyo personally take the position that such a policy is completely unrealistic, they will not come out strongly in opposition to it so long as it is the official Socialist position, largely for fear of

splitting

splitting their unions on a political issue. Thus while it would appear that early Sohyo membership in the ICFTU is likely (though not certain), it is unlikely--unless the Socialist Party splits on the issue--that organized labor will openly or strongly support a "separate peace" program. On the other hand, aside from passing resolutions, I do not believe the Sohyo will actively work against steps leading to a separate peace. I am hoping to persuade the AFL and CIO to address messages to selected Sohyo leaders setting forth the positions of these U.S. bodies on this matter.

Attachment:

Copy of letter to
Mr. Oldenbroek.

cc:- FE- Mr. Luck
Mr. Merchant

FE:PBSullivan:db

COPY

Tokyo, Japan
17 March 1951

Mr. J. H. Oldenbroek, General Secretary
International Confederation of Free Trade Unions
24, rue du Lombard
Brussels, Belgium

Dear Mr. Oldenbroek:

By now you probably have received primary reports from Mr. Okura and others of the nation taken at the convention of the General Council of Trade Unions of Japan - Sohyo - relative to affiliation with the ICFTU. The convention, bound by a two-thirds rule, failed to vote affiliation of Sohyo itself with the ICFTU although the way was left open for individual unions to affiliate themselves. The vote in favor of affiliation ran almost two to one as evidenced by the final vote of 149 in favor and 79 against. Many abstained, however, thereby preventing the required two-thirds of 164. In spite of the fact that the large majority favored affiliation, the fact that the convention officially failed to ratify it must be considered as a set-back for ICFTU in the Far East.

Such a result was not unexpected. In my letter of 27 Febrsary, I mentioned the perceptible cooling in sentiment toward the ICFTU. As a result of the convention it is now possible definitely to place the areas in which this defection is most pronounced. In general, it falls within the Government unions such as the teachers, a part of the National Railway Workers Union, the Postal and Telecommunications unions, and within Shin Sanbetsu, and a fringe of others which, as Shin Sanbetsu, are subject to the influence of the present leadership of the Social Democratic Party. It is worthy of note, however, that the Electric Power Workers Union, Densen, and the Federation of Heavy Electric Machine Workers Union, Judunki, both of which Shin Sanbetsu claimed to influence, supported affiliation with ICFTU in spite of the fact that they themselves are not affiliated.

As you know, the Social Democratic Party currently is expounding its three principles of (1) over all Peace Treaty, (2) opposition to military bases, (3) strict neutrality and in addition, opposition to rearmament.

The reasons why these organizations opposed affiliation of Sohyo to ICFTU vary. Shin Sanbetsu and the delegates under its influence were motivated by their allegiance to the principles

of the

of the Socialist Party. The delegates representing the National Railways, Postal, Telecommunications and the Teachers were motivated partly by the policies of the Social Democratic Party but more by the fact that the Communists and their sympathizers have gained in strength in the Government unions within the past year. The present officers of these unions who were among the delegates at the convention, took this position against the ICFTU so as not to alienate the Communist-sympathizers in their ranks and thus, in their thinking, not to jeopardize their chances for reelection within their own organizations.

It is significant that Mr. Etsuo Kato, a member of the executive committee of ICFTU and recently elected Secretary General of the National Railway Workers Union, was conspicuously inactive in forwarding the case of the ICFTU. I am told that he presented himself at the convention for ten minutes only to give a brief report on the ICFTU. His union was split on the issue, about half opposing affiliation, in spite of the fact that the three top officers of the union - Kato, Saito, the President, and Hoshika, the Vice Chairman - are known definitely to personally favor the right-wing of the Socialist Party which is for close ties with the West, separate peace treaties and rearmament.

Oka, President of the Teachers' Union, who has been recommended as a member of the General Council in place of Mr. Araki, was active in his opposition to affiliation with ICFTU. I talked with him the other day and he said that he was personally in favor but desired to have each component of Sohyo decide on their own initiative to affiliate before Sohyo did. His reasoning is very strange, of course, and from his associations and others, we know that the real reason for his opposition was his fear of alienating supporters within his organization.

As to Shin Sanbetsu, Mr. Krane knows that situation thoroughly. I think it was a mistake for Sohyo to admit Shin Sanbetsu as its affiliation from the outset was obviously reluctant and done more to help Shin Sanbetsu than to help Sohyo. It affiliated with the reservations: (1) to "purify" Sohyo, (2) it declined to dissolve itself and affiliate its components to the national industrial unions in Sohyo. I personally think it would be much better if Sohyo severed relations with Shin Sanbetsu but the Japanese attitude based upon traditions of family and group unanimity favors the inclusion of all groups. They fail to see, of course, that this weakens and often paralyzes the direction of the organization involved as in this case in conjunction with the two-thirds rule it has paralized the majority will of Sohyo. We also believe that the two-thirds rule should be eliminated and this will probably be done in a year or two.

Although

Although on the political plane because of the situations in the Government Workers Unions, Shin Sanbetsu appeared to win, on the organizational plane, it lost. The convention voted to abolish the unanimous rule which bound the Board of Governors (Central Committee) and by which rule Shin Sanbetsu was able of course to exercise a veto power on the Board. The change was from unanimous rule to three-quarters rule, not a large step toward democracy by the majority but at least a step forward. Shin Sanbetsu also lost on the votes to strengthen Sohyo. The convention decided to take a step forward in converting Sohyo into a strong federation instead of a loose council and to increase the budget in spite of Shin Sanbetsu's objections.

It appeared for a time that the failure to affiliate with the ICFTU would create a split in Sohyo as the Seamen's Union and the Miners' Union, headed by Muto, President of Sohyo, stated they would refuse to allow any of their members to become officers of Sohyo unless affiliation was passed. When the question of affiliation was reconsidered it increased the number in favor from 142 on the first vote to 149 on the second which I mentioned in the first paragraph. A recess had to be called in order to give the union leaders a chance to overcome the crisis. Muto finally agreed to serve again as President. The Vice Chairmen chosen are a great improvement over the weak officers put in these positions last year. The election of Minoru Takeno, General Secretary of Sodomei, is a great step forward for Sohyo. He replaces Shimagami his Chief Assistant who will probably be appointed head of the Political Department. Takeno, a master organizer, now brings into Sohyo the vast plan he set in motion as leader of the majority faction in Sodomai to organize national industrial unions affiliated directly to Sohyo and to bring some order finally into the patch-work quilt pattern of the Japanese labor movement.

The truly workers unions are angry beyond measure at the opposition to ICFTU shown by the Government Workers Unions and Shin Sanbetsu. The new executive committee of Sohyo met on 14 March, two days after the conclusion of the convention and severely criticised Kato and Oka. When Kato was asked why he did not actively support affiliation, he answered "It is democracy." The two delegates from Shin Sanbetsu much to their surprise, were firmly requested to withdraw from the meeting in order that the Executive Committee might prepare the agenda for an extraordinary meeting on 20 March.

Tanro, the Coal Miners' Union, headed by Muto, has proposed the following action to be taken on 20 March:

1. To

1. To recommend that Mr. Kato and Oka voluntarily resign from their positions in the ICFTU.

2. If they refuse, the Sohyo Council should demand that the ICFTU recall them.

3. The Joint Council of Unions affiliated with the ICFTU will draft a report to the ICFTU, the drafting to be entrusted to the Seamen, Tanro and Sodomei which you will notice are all unions favorable to affiliation.

4. Shin Sanbetsu must pay its dues owed to ICFTU in the amount of ¥800,000 or be expelled from the Joint Council of Unions affiliated with the ICFTU.

I, and undoubtedly Mr. Okura, will let you know what happens after the 20th.

On 15 March the industrial unions in Sohyo met to set up a coordination committee within Sohyo. This move was sponsored by the Seamen's Union.

Another step along the road to unification of the Japanese labor movement in Sohyo will be the special convention called by Sodamei on 28 March to carry out its dissolution finally. I do not think one should fret overmuch at the failure to affiliate with ICFTU. The trend of events is certain to discredit the present and in our opinion, stupidly pro-Communist policies of the present leadership of the Socialist Party. The leaders of Sohyo intend to call a special convention some time in May or June to definitely carry out affiliation with the ICFTU. I am sure that around that time this will be definitely accomplished.

As a matter of fact the Sohyo convention was a mile-post in the development of the labor movement here. It was democratic; the debate was free and fair although at times heated and once or twice violent; but more significant, the delegates were doing their own thinking and their own deciding. I think that in spite of the failure to affiliate, Sohyo has been greatly strengthened and will become an organization assuredly permanent once its member unions decide to give it a budget above the pauper's level.

So long as I am here, I shall supplement Sohyo's reports to you with my personal observations. I am leaving in July, however, and I hope by that time that the liaison between Sohyo and you and with Mr. Mungat in Singapore will have been

firmly

firmly established. Increased activity by ICFTU in this area is especially essential. These people are at a crucial point in their thinking on international affairs and on Communism. Many are still immersed in the fuzzy thinking of the present leadership of the Socialist Party. I think it is essential that you should come and have a look for yourself. If you could do so soon, you could be of great help as that would crystalize the thinking of many of the labor leaders for the next vote on the question of affiliation. They have been disappointed that you did not come in January as Mr. Kato had led them to believe. I think that action without delay to establish an ICFTU office in Japan and to place Japanese representatives in Brussels and Singapore is vital. This of course is the most advanced and numerous labor movement in the Far East and vital to the future, not only of Japan but of the entire Asian area.

We are now having translated and analyzed the various reports to and from the Sohyo convention. In about a month, I shall be able to send them to you.

With best wishes of me and my wife to Mr. Krane. Please do try to come to Japan.

Very sincerely,

/s/ Val

Val Burati
Chief, Labor Relations and Education
Branch Labor Division

Mr. Val Burati
Labor Division
ESS, GHQ, SCAP
APO 500, c/o Postmaster
San Francisco, Calif.

P.S. I am enclosing an unedited report just completed by our observer at the convention, Mrs. Fuji Nakawaki, who is also very much respected and trusted by the Sohyo leaders. V.B.

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

Office of the U.S. Political Adviser
Tokyo

PERSONAL-CONFIDENTIAL

March 30, 1951

Dear Phil:

In yours of the 16th you have expressed an interest in anything new with respect to the foreign policy resolution. While the action which was taken by Soyho concerning ICFTU affiliation appeared to be confusing, such is not the case with respect to their action in support of the announced peace principles of the Social Democratic Party to which the Soyho Executive Board had previously given endorsement. The resolution adopted in the Soyho convention is in every sense the position of the Social Democratic Party as regards their announced peace principles.

It may help a little to set out here and with as little detail as possible the respective proposals concerning this issue which were presented to the Soyho convention and the action on each by the convention. It was interesting to note the proposers and the vote each received. Three proposals were submitted and identified as proposals A, B and C.

Proposal A - This resolution was reported to have the support of a majority of the Executive Committee and was identified as the Executive Committee's proposal. It was supported by what would be identified as the middle faction. Those who support the organization of industrial unions and the strengthening of Sohyo as a Federation, namely, Takano followers from Sodomei and Muto supporters from Tanro and the Metal Miners Federation. This resolution provides "we will struggle to protect the peace of Japan and to obtain the independence of Japan by opposing rearmament, maintaining neutrality, opposing the proposal for military bases and for the realization of an overall peace according to the principles of the constitution providing for an unarmed Japan".

Proposal B - This resolution was supported by factions considered to be more to the left, namely, Shin Sanbetsu, some of the National Railway Workers delegates, Postal and Telecommunications workers and the Japan Teachers union. It provided "we will struggle for overall peace, strict maintenance of neutrality and opposition to the proposal for military bases and the objectives of the Japanese working class".

Proposal C - This resolution was proposed by what could be called the more rightest faction. It was proposed and supported by the coal miners organization Nikko as opposed to Tanro, shipbuilders union Federation and the right wing of the textile workers from Sodomei. This resolution provided "we will promote the conclusion of overall peace and fight to obtain the independence of Japan with guaranteed freedom and equality". While the translation of these proposals from the Japanese may be a little on the rough side they were done in a hurry by Mrs. Fuji Nakawaki of the Labor Division of ESS, nonetheless I am reasonably certain they are correct. It

is noticeable that although the proposers run the gamut from one extreme to the other the proposals are substantially the same. One could say the differences, if there be any, would be in the thinking of the proposers and not in the written word. Following the introduction of the proposals, adherents of the various proposals stated their position before the convention. With respect to Proposal A Mr. Shioya of the Metal Miners Federation made it clear in his explanation that Proposal A included cooperation with the United Nations and approval of the police action of UN forces in Korea.

Speaking on Proposal B, Mr. Ochia of Shin Sanbetsu, one of the proposers of the resolution, stated that "insofar as the United Nations was taking action which was in compliance with its purposes cooperation with the United Nations was necessary but as now when the United Nations was divided Japan should not participate with either of the two forces (referring I assume to USSR actions in the UN and to the Communist support for the North Korean forces). The most important thing is the independence of the Asian races, cooperation with other countries should be on the basis of the independence of our country". There is no report of anyone speaking in favor of resolution C, however, Mr. Mashukara, a delegate from the seamans union, speaking on all of the resolutions stated that "their organization was opposed to all three resolutions". He went on to state that "the seamans union had a more complete knowledge of the international situation than other unions because of the contact which members of his organization had with other countries". He further stated that "of course overall peace, eternal neutrality and no military bases are the earnest desire of all the people of Japan. However, from a practical standpoint, it is impossible to realize those ideals. How is overall peace possible in the world owing to conflicting ideologies? If there is no possibility of maintaining eternal peace, then Japan will have to guard against invasion. We will have to defend Japan and we will have to depend for security upon the United Nations. We cannot agree to any one of the three proposals as part of an action program". Then following the statements by these three gentlemen and subsequent debate the resolutions were voted upon with the following results, with 251 delegates present. Proposal A, supported by the middle faction, received 86 votes; Proposal B, supported by the leftists and government workers, 108 votes; Proposal C, supported by the rightests, 27 votes. 30 delegates, including those from the seaman, abstained from the vote. None of the above proposals were adopted because of failure to win the required two-thirds majority. Following this vote the postal and telecommunication workers, who were among the supporters of proposal B which was considered as that of the more leftists organizations, offered an amendment to Proposal A. The amendment was practically a repetition of the Executive Board's proposal providing that "we will struggle to protect the peace of Japan and to obtain the independence of Japan by opposing rearmament, maintaining neutrality, opposing the proposal for military bases and by these means realize an overall peace". This amendment to Proposal A was then voted upon and received 202 votes with 39 votes cast in opposition and 10 abstained from voting. It is worthy of note that the left wing amendment to the Executive Board's proposal received more votes than were cast on the original balloting for Plans A and B.

There are members of labor and labor leaders as there are other members of the Social Democratic Party who do not approve of or support the peace principles of the party but nevertheless they remain members of and support the party. In April they will elect prefectural governors, assemblymen, mayors and local officials. There is no national election for Diet members and while the press has deplored the election tactics of the Social Democrats in doing so, they are proposing the three peace principles as the principal issue in the campaign and they hope to gain strength and eventual political control of Japan almost entirely upon what they believe will be the appeal and the popular acceptance of the peace principles.

Labor leaders on the national level such as Minoru Takana, Secretary General of Soyho, Saito, Hoshita and Kato of the Railway Workers, Kagayama of the Seaman, Muto of the Coal Miners and Soyho and a number of others who have taken a more realistic view of the world situation do not hold with all of the peace principles proposed by the Social Democrats. In their writings and speeches they are attempting to develop an independent labor philosophy on the peace treaty separate from the Social Democratic Party. Their open opposition, however, to these principles is expressed only in private and not in the presence of each other. It was noticeable at the Soyho convention that the only delegates who took a definite stand against the resolution in support of the peace principles were from the seamans union. None of the other did or in my opinion will break with and speak out against labor support of these principles unless they feel assured of rank and file support.

Labor is deeply concerned and has many misgivings about a possible return to power after the peace treaty of a reactionary government lacking inhibitions and restraints. They view rearmament as remilitarization and a return of the military to a position of influence if not governmental control. They likewise fear a loss of the civil and political liberties which they have gained under the occupation. It is my belief that they seek advance assurance that these newly won rights and liberties will be protected and retained and that they will not again be oppressed under the military. In conversations with them they place particular stress upon their opposition of the rearmament of Japan and I recall in the conversation with Mr. Muto, Mr. Okura, Mr. Kagayami and Mr. Oka had with Mr. Dulles at one of Mr. Sebald's parties that for a full half hour they discussed no other point other than setting forth their opposition to rearmament and stating that Japan was compelled to adopt a provision against rearmament in their constitution by the Allied powers and that they desired to retain it. While they do not subscribe to a separate peace or military bases they do not approach these questions with the same feeling.

While they are now free to seek a change of government if they so choose through the ordinary process of democratic elections, this argument, does not appear to impress the average Japanese. They lack confidence in

their ability through political means to prevent retrogressive action and are seeking to be assured by other means that these things which they fear will not be permitted to come to pass.

Just this morning I received a copy of the American Federation of Labor greetings to the Soyho convention and I am enclosing a copy as you suggested in yours of the 16th. .....

Sincerely,

/s/ John Ballew

Mr. Philip B. Sullivan,
Labor Adviser,
Department of Far Eastern Affairs,
Department of State,
Washington, D. C.

COUNCIL ON FOREIGN RELATIONS, INC.
THE HAROLD PRATT HOUSE 58 EAST 68TH STREET
NEW YORK 21, N. Y.

April 2, 1951

To Members of the Study Group on
Japanese Peace Treaty Problems:

I am sending you herewith Mr. William Henderson's minutes of the group's fifth meeting, held on February 28th, at which the subject for discussion was the rearmament of Japan and the possibilities of a regional security pact in the Pacific.

George S. Franklin, Jr.
DIRECTOR OF MEETINGS

Personal *Not for publication*

DIGEST OF A MEETING

Study Group on
JAPANESE PEACE TREATY PROBLEMS

Chairman: Everett Case
Rapporteur: William Henderson

Fifth Meeting
February 28, 1951

Digest of Discussion

COUNCIL ON FOREIGN RELATIONS
58 EAST 68TH STREET NEW YORK 21

The Study Group on Japanese Peace Treaty Problems held its fifth meeting at 6:00 p.m., on Wednesday, February 28, 1951, at the Harold Pratt House. Present were: Everett Case, chairman; Hugh Borton, secretary; William Henderson, rapporteur; Joseph Barber; Arthur H. Dean; Wallace B. Donham; Eugene Dooman; William L.Holland; J. Morden Murphy; Francis B. Sayre.

Mr. Case opened the discussion. He called attention to Working Paper No. 5, prepared by Mr. Borton and entitled A Japanese Peace Treaty and a Pacific Pact, and suggested that the study group devote its attention to consideration of the eight Suggested Questions for Discussion that had been prepared on the basis of Working Paper No. 5.

Prior to discussion of the first question, Mr. Borton made several observations in connection with Working Paper No. 5. First, he referred to the statements on page one concerning Representative Javits' proposals of January 23, 1951, for United States participation in a Pacific Pact. These proposals are much more far-reaching than anything discussed by Mr. Dulles in his recent conversations with various governments in the Pacific area. Moreover, if such a pact as Mr. Javits proposes were negotiated, Japan would probably not be an original signatory. The Republic of the Philippines should be substituted for Japan in Mr. Javits' proposals. Japan's participation would probably be provided for by means of a bilateral agreement with the United States.

Second, Mr. Borton called attention to the statement, noted on page two, of the Secretary of State at his press conference of February 23, 1951, in which he indicated doubt whether any proposal for a Pacific Pact would find ultimate general acceptance. Mr. Acheson actually did make this statement, but it indicates somewhat greater pessimism than actually exists on the matter. At the time that he made this statement, Mr. Acheson had not been fully informed of the results of Mr. Dulles' trip. The statement is not a true indication of State Department opinion at the present time. The United States is in fact more favorably disposed toward a Pacific Pact than Mr. Acheson indicated.

Third, Mr. Borton observed that the statements of Premier Yoshida that are summarized on page two of the Working Paper, were made as much for domestic consumption as anything else. Privately, Mr. Yoshida is a more enthusiastic supporter of Japanese rearmament than his statements would lead one to believe. Moreover, Mr. Yoshida has not yet been pressed for a specific commitment in respect of rearmament, and for political reasons it is still too early for Japan to commit itself in the matter of joining a Pacific Pact.

1. Would rearmament impose too heavy a strain on the Japanese economy?

Mr. Murphy observed that ever since the end of World War II Japan has been more dependent economically on the United States than has any European country. Hence, if the current rearmament of Western Europe is being undertaken only on the premise that the United States will supply a large

proportion of the needed funds and equipment, then it is obvious that such aid would be even more necessary in the case of any Japanese rearmament. To cite only one concrete example, Japan cannot now meet its own peacetime requirements for steel. It could not possibly meet the greatly augmented requirements of a rearmament program. The real question we have to answer is, how far will the United States go toward the rearmament of Japan? How much can the United States afford to do in this respect?

Mr. Dooman pointed out that at the present time, more than five years after the end of the war, Japan does not yet enjoy a reasonable standard of living. On the contrary, it still depends on American help in meeting its minimum daily needs. Since this is the case, Japan is obviously in no position to maintain a military force. Whether Japan will ever be able to afford rearmament depends on such matters as the extent to which the Japanese are able to rehabilitate their economy through a greatly expanded foreign trade, and the sort of economic treatment that will be accorded Japan in the peace treaty and thereafter.

Mr. Holland asked whether the problem of Japanese rearmament had to be considered solely in terms of the reestablishment of an independent Japanese military force. The burden of this may be too heavy for Japan at the present time and for the foreseeable future. Yet this does not preclude another kind of Japanese "rearmament" that would be very useful for the over-all defense of the free world. There are many things that Japan could undertake in cooperation with the United States and the West that would be of invaluable assistance to the general rearmament effort of the free world, but which would not involve the creation of a separate military establishment. For example, Japan is able to manufacture many things much more cheaply than the United States or other countries of the West. Its extensive shipbuilding industry could be of great value, both for new construction and for repair purposes. Finally, the Japanese possess an extensive pool of trained military manpower. In short, Japan could perhaps play a very significant role as part of a collective effort for the defense of the free world. Moreover, such a role might be more feasible politically than an independent rearmament program.

Mr. Dooman queried whether the Japanese are willing to rearm at the present time. Mr. Borton replied that Premier Yoshida has emphasized in recent statements that Japan is not in a position to rearm at present, both because of economic difficulties and because of a fear of reprisals against those Japanese who are still held as prisoners by the U.S.S.R. Unquestionably Mr. Yoshida is compelled to take this position publicly because of domestic political pressures within Japan. The Social Democrats, as well as such prominent individuals as President Nambara of Tokyo University, have been strongly opposed to rearmament. According to a recent SCAP survey, moreover, only 30 per cent of the Japanese people are in favor of rearmament; approximately 27 per cent are opposed, and the remainder are still undecided.

In this connection, Mr. Murphy stated somewhat later that the Governor of the Bank of Japan is also strongly opposed to Japanese rearmament. Mr. Dooman added that at the end of January, 1951, Japan's Attorney-General stated his opinion, as a lawyer, that the new Japanese constitution forbade rearmament. In the flurry that followed this statement, however, it would appear that Premier Yoshida's party gave support to the opposite point of view.

Mr. Case then observed that if there now exists in Japan a strong urge to reassert Japan's spirit of independence, as well as a desire to remain free of Russian domination, then any desire to remain disarmed would seem to be plainly anachronistic in view of Japan's close proximity to the Soviet Union. This may be logically so, said Mr. Dooman, but one ought not to be too logical in dealing with Oriental problems.

Mr. Holland suggested that if the constitution is amended in order to permit some form of Japanese rearmament, there ought to be some simultaneous provision made to ensure civilian control over the revived military establishment. Such control is already guaranteed, said Mr. Dooman, by Japan's new system of government, which assures the supremacy of the legislative branch over the executive branch of government.

The discussion then returned to Mr. Holland's previous suggestion concerning the direction which Japanese rearmament could possibly take. Mr. Dooman reiterated his view that the Japanese cannot now afford the expense of reestablishing an independent armed force, especially since they are still unable to meet even their minimum peacetime requirements. On the other hand, there is much that Japan could do as an integral part of a more general Western rearmament effort. What is economically out of the question is the creation of an armaments industry that is capable of nothing else but arms production. But in other directions much can be done that is both economically possible and of great use to the free world. For example, ordinary commercial industry that turns out rifles, jeeps, and so forth, is entirely feasible for Japan and would be of great assistance for the West. Moreover, while the Japanese are unwilling to sink what limited funds they now have available for capital investment into non-productive armaments enterprises, they would probably be willing to invest in the production of para-military goods.

At the present time, said Mr. Murphy, Japan is already manufacturing light armaments for use in the Korean War to the extent of $30 million per week. Mr. Dooman added that Japan has now built up, largely in consequence of American expenditures for armaments, a favorable dollar balance of $525 million.

Mr. Borton agreed that if the United States insisted on independent Japanese rearmament, the result would probably be a dangerously unbalanced Japanese economy. If we proceed as suggested above, on the other hand, the end product could well be a balanced Japanese economy that fitted naturally into the Far Eastern economic picture as well as into the Western rearmament program.

Mr. Case stated that there seemed to a concensus of opinion among the members of the study group that in order satisfactorily to meet the problem of security in the Pacific, a contribution by Japan involving limited rearmament is desirable, and probably imperative. The effect of this on the Japanese economy will depend on the dimensions of the program and on the degree to which the Japanese economy can be rehabilitated on an expanding base. Given the necessary conditions, such as adequate American help, the program need not lead to disastrous consequences.

It should be made clear, said Mr. Holland, that it would be a serious drain on the Japanese economy if Japan were required to raise and sustain any considerable force of its own, even if the force were equipped with light weapons only. The consequences for Japan would be entirely different, however, if its main effort were devoted to the manufacture of military equipment that could be sold for foreign exchange. Mr. Borton agreed with this view. He added that Senator Lodge's recent suggestion, that American policy should seek to use foreign troops as much as possible for the defense of the free world in order to conserve American manpower, would seem to be inapplicable in respect of Japan. A new Japanese armed establishment could be developed only on condition that the United States is willing to subsidize it. But this would not be as effective as the alternative program outlined above. Hence we should urge that the Japanese rearmament effort be directed into productive channels, such as the shipbuilding and automotive industries.

It is true that Australia is fearful of the revival of Japan's merchant marine, and even more fearful of the revival of a strong aircraft industry in Japan. If restrictions are placed on these activities, however, the Australians will not be particularly concerned by the prospect of Japanese rearmament. Mr. Murphy pointed out that at the present time Japan possesses less than a million tons of ocean-going vessels. The Japanese need whatever shipbuilding capacity they now have to build this total up. They undoubtedly do not want to waste part of this capacity on the construction of a new navy, except perhaps for essential coast guard vessels and so forth.

2. <u>What might be the effects on the future of democracy in Japan if that country were asked to build up a strong armed force at the present time</u>?

Mr. Sayre expressed the opinion that if Japan were obligated to undertake a large-scale rearmament program at the present time, the prospects for the successful development of Japanese democracy would be seriously undermined. But much would depend, Mr. Murphy said, on the size of the reconstituted armed force. The development of what was essentially only a police army might not be too dangerous.

Mr. Borton observed that the United States has not yet succeeded in making democracy work anywhere in Asia. But we have now made a hopeful beginning in Japan, and it will be unfortunate indeed if we allow anything to jeopardize that progress. Failure in Japan will lead the rest of Asia to the conclusion that democracy cannot work in that part of the world, and there will then be a grave danger that Asia will turn to Communism as the better alternative. Hence a program for the rearmament of Japan carries the threat of disastrous consequences extending far beyond the Japanese islands.

Mr. Dooman suggested that the second question would be more relevant if it queried the possible effects of rearmament on Japanese peace-mindedness, rather than on the future of Japanese democracy. He doubted whether any real progress has in fact been made in Japan toward the development of true democracy. Democracy means far more than mere machinery, and all that the United States has so far done is to give Japan the machinery. The true essence of democracy has not yet been instilled, and without this the machinery is meaningless.

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Mr. Holland suggested that if the constitution is amended in order to permit some form of Japanese rearmament, there ought to be some simultaneous provision made to ensure civilian control over the revived military establishment. Such control is already guaranteed, said Mr. Dooman, by Japan's new system of government, which assures the supremacy of the legislative branch over the executive branch of government.

The discussion then returned to Mr. Holland's previous suggestion concerning the direction which Japanese rearmament could possibly take. Mr. Dooman reiterated his view that the Japanese cannot now afford the expense of reestablishing an independent armed force, especially since they are still unable to meet even their minimum peacetime requirements. On the other hand, there is much that Japan could do as an integral part of a more general Western rearmament effort. What is economically out of the question is the creation of an armaments industry that is capable of nothing else but arms production. But in other directions much can be done that is both economically possible and of great use to the free world. For example, ordinary commercial industry that turns out rifles, jeeps, and so forth, is entirely feasible for Japan and would be of great assistance for the West. Moreover, while the Japanese are unwilling to sink what limited funds they now have available for capital investment into non-productive armaments enterprises, they would probably be willing to invest in the production of para-military goods.

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It should be made clear, said Mr. Holland, that it would be a serious drain on the Japanese economy if Japan were required to raise and sustain any considerable force of its own, even if the force were equipped with light weapons only. The consequences for Japan would be entirely different, however, if its main effort were devoted to the manufacture of military equipment that could be sold for foreign exchange. Mr. Borton agreed with this view. He added that Senator Lodge's recent suggestion, that American policy should seek to use foreign troops as much as possible for the defense of the free world in order to conserve American manpower, would seem to be inapplicable in respect of Japan. A new Japanese armed establishment could be developed only on condition that the United States is willing to subsidize it. But this would not be as effective as the alternative program outlined above. Hence we should urge that the Japanese rearmament effort be directed into productive channels, such as the shipbuilding and automotive industries.

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Mr. Borton observed that the United States has not yet succeeded in making democracy work anywhere in Asia. But we have now made a hopeful beginning in Japan, and it will be unfortunate indeed if we allow anything to jeopardize that progress. Failure in Japan will lead the rest of Asia to the conclusion that democracy cannot work in that part of the world, and there will then be a grave danger that Asia will turn to Communism as the better alternative. Hence a program for the rearmament of Japan carries the threat of disastrous consequences extending far beyond the Japanese islands.

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Mr. Murphy agreed with this pessimistic analysis, and added that it was simply another indication of the spiritual anemia of post-war Japan. The collapse of the emperor myth has left a void. Various suggestions have been offered by prominent Japanese as to the best method of filling it. Inukai has urged the mass adoption of Roman Catholicism. Others propose moral rearmament. Certain bankers have emphasized the development of Japan's cultural resources. The variety of proposals only underlines the depth of the present void.

Mr. Holland then said that if the United States restores complete and untrammelled sovereignty to Japan, the Japanese must accept some of the responsibility for the defense of their country. Self-defense is an essential part of the democratic process. Hence Japan must rearm, at least to some extent. Any attempt on the part of the Japanese to avoid this necessity would make a travesty of normal democratic responsibility. Undoubtedly there are dangers involved in Japanese rearmament, but they can perhaps be overcome to some extent by reeducation and by the imposition of proper safeguards.

Mr. Dooman suggested that the rate of Japanese rearmament ought to be linked to Japanese progress in the development of genuinely constitutional and democratic processes of government. Mr. Borton thought that the rate of rearmament ought perhaps to be subordinate to and dependent upon the development of real democracy. But Mr. Donham believed that there could be no growth of a sense of democratic responsibility without the assumption by Japan of at least part of the burden of its own defense, and hence without some rearmament. Pride also demands this course. Mr. Dooman doubted, however, whether pride ought to be taken into account. The Japanese have lost their pride in their country since the war, and are only slowly recovering it. It is still almost non-existent, and is not a factor as yet.

Mr. Holland pointed out that we cannot hope to control Japan and its development forever. If we restore freedom to Japan, we must realize that things will not develop as we wish or expect. This includes rearmament and its consequences.

Mr. Case stated that the concensus of the study group seemed to be that there were risks involved in Japanese rearmament which called for the exercise of reasonable precautions by the Allies consistent with the general aim of restoring sovereignty to Japan. But however formidable the risks might be, they had to be taken; for the dangers that would flow from stopping rearmament were even greater.

Mr. Dooman queried whether it was agreed that the rate of Japanese rearmament ought to correspond to Japan's progress in the development of a responsible and peacefully-inclined government. Mr. Case replied that this was an admirable desideratum, but doubted whether we could maintain sufficient control over Japan to achieve this end. Mr. Murphy agreed with the view previously expressed by Mr. Holland, although he admitted that the United States had the right, before the signature of the peace treaty, to insist on adequate safeguards if Japan rearmed.

Mr. Murphy observed that it is not quite accurate to say that Asiatic initiative never developed. It did develop, but under unfortunate auspices. Mr. Murphy agreed that Australian interest in the proposed pact is primarily a reflection of its concern over the possibility of a resurgence of Japanese aggression. But the Australians are also worried about China, regardless of whether it is Communist or Nationalist, and the attractiveness of their own vast "open spaces" to the overcrowded Chinese.

Nothing is to be gained by the negotiation of a four-power Pacific Pact that could not be accomplished by a unilateral American declaration to the effect that the United States is prepared to protect Australia, New Zealand and the Philippines against any renewal of Japanese aggression. If the pact is negotiated, almost inevitably it would be necessary to include Nationalist China in it. But if the Nationalists were included, the prospects for the participation of India, Indonesia, and other nations as well, would become very dim indeed. On the other hand, if Nationalist China were excluded from the pact, it would probably be impossible to get it through the Senate. This will be especially true for the next several months, that is, during the period that the Japanese peace treaty is going to be negotiated.

Mr. Sayre agreed with this view, but Mr. Dean suggested that a declaration by the United States of its determination to defend Australia, New Zealand and the Philippines against a renewal of Japanese aggression, might make impossible the negotiation of a peace treaty with Japan. Mr. Murphy doubted that this would be so. The Japanese would not be too resentful of the idea that their neighbors still fear them. They would accept such a declaration by the United States if it were necessary to get a peace treaty.

Mr. Holland said that in New Zealand there is no such morbid fear over a revival of Japanese expansion as seems to exist in Australia. New Zealand would in all probability not even require an explicit declaration by the United States as the price of its agreement to a Japanese peace treaty. Some sort of general understanding would doubtless suffice. Indeed, it seems likely that the possibility of some sort of bilateral guarantee as an alternative to a general Pacific Pact, must have been discussed during Mr. Dulles' recent visit to New Zealand.

Mr. Case stated that there seemed to be no concensus in respect of the third question, although the alternative of some form of unilateral guarantee by the United States, instead of a more general Pacific Pact, seemed feasible to some members of the study group. In respect of the fourth question, there seemed to be agreement that a Pacific Pact would not in itself halt the spread of Communism in Asia, nor would it increase the bonds of friendship between the United States and some proposed signatories of the pact. Moreover, there was implied agreement that the pact would not weaken the Chinese Communists. In short, the study group seemed to be agreed that the proposed Pacific Pact would not increase the security of the United States.

Mr. Dooman asked whether there would be general agreement with the view that, in order to get a peace treaty with Japan, some form of security arrangement should be negotiated by the United States with Australia, New Zealand and the Philippines. Such an arrangement could then be the nucleus from which a more far-reaching Pacific security system might develop.

Mr. Murphy said that there would be no difficulty from Japan on this subject. The Japanese would understand that the United States had entered the pact so as to be in a position to benefit Japan, that the pact was essential if a peace treaty were to be negotiated. Mr. Sayre queried, however, whether we were not exaggerating the need for a Pacific Pact. Particularly if the level of Japanese rearmament is not very high, there might not be any pressing necessity for a guarantee to Australia, New Zealand and the Philippines. What these countries are worried about is a resurgence of expansion on the part of a rearmed Japan. The more that rearmament is restricted, the less the need for a pact of guarantee.

In this connection, Mr. Murphy pointed out that the Australians are deeply suspicious of improving Japan's position in any respect unless they are reassured by a pact of guarantee. For they are fearful not only of Japan's military recovery, but of its economic recovery as well. Particular concern is felt in connection with the revival of Japan's strength in shipbuilding, steel, and finance.

Mr. Case speculated as to the impact on the rest of Asia of a security arrangement limited to three white countries (the United States, Australia and New Zealand) and an Asiatic "satellite" of the United States (i.e., the Philippines). Mr. Murphy replied that in respect of Japan, this fact would cause little difficulty. For the Japanese will not become sensitive to their international rights, or care to assert international demands, for several years at least. The Japanese feel very deeply their guilt for having precipitated the Pacific War. They recognize that they must accept the blame for this, and they are prepared to pay a moral penalty. Indeed, they are even resigned, without bitterness, to the probability that their country will not be able to join the United Nations organizations for some time to come.

Mr. Sayre said that while this might be true at the present time, this compliant and resigned attitude may not last. Especially the youth may become impatient and demand equality of prestige for their country. In this respect, the lesson of Germany from 1929 on is instructive. Mr. Murphy replied that the analogy is not exact. In the case of Germany, an attempt was being made by France to prevent its normal recovery. But we are not trying to hold the Japanese down; indeed, we are doing just the opposite.

Mr. Dooman stated that the thing that preoccupies the Asiatic is the question of white privilege. Indeed, the current appeal of Communism is not so much that it promises a cure for poverty as that it offers a lever for getting rid of the white man. The economic problem is secondary to making the white man give up his privileges. Mr. Holland agreed with this view and added that because of this deep-rooted fear and detestation of white privilege, a "white" Pacific Pact would be very suspect in Asia. If we nevertheless proceed to negotiate it, at the very least an effort should be made to gain Indian acquiescence to the scheme.

Mr. Murphy said that to the degree that any Pacific Pact is in reality simply an American guarantee to certain powers against aggression, India and Pakistan will probably be indifferent to it. But if a more grandiose purpose is intended, then the above-mentioned psychological danger does exist.

Mr. Case queried whether it would not be wise, if a four-power pact were negotiated, to invite the participation of all powers that had been at war with, or invaded by, Japan. Mr. Murphy replied that if, in this event, the Nationalist Chinese government on Formosa were invited to join, the repercussions elsewhere in Asia would be disastrous. Mr. Murphy added that he had been of the opinion that the State Department was opposed to a Pacific Pact, and that Australia was trying to force us into one. If this is so, why should we offer a pact to powers that have not asked for one? Why should we change our policy and attempt to organize a large pact?

Mr. Case replied that a major objective of American foreign policy is to establish closer ties with India. One method of accomplishing this might be through the negotiation of a general security arrangement that included the participation of India. Mr. Murphy agreed that the United States needs Indian friendship, but believed our approach to the Indians should be direct and not disguised by joint membership in a Pacific Pact.

5. Are either a peace treaty with Japan or a Pacific Pact advisable unless a Pacific Economic Council is established?

Mr. Case queried whether it might not be wiser to seek to negotiate an economic pact for the region of the Pacific before the negotiation of a security pact, so that the latter might eventually be more easily agreed upon and so that more states would participate in it. Mr. Murphy replied that difficulties involved in the negotiation of an economic pact are far greater that those in connection with a security arrangement. The fundamental difficulty is that the countries of the Far East are simply not interested in an economic pact at the present time. These countries are highly competitive with each other. They have very grave problems at home. They are not interested in helping their neighbors until their own most pressing difficulties have been overcome.

In connection with the task of attempting the economic rehabilitation of Southeast Asia, Mr. Dean remarked that one of the greatest problems is the lack of a sufficient number of able administrators. Mr. Murphy agreed, and reminded the study group that some time ago the Export-Import Bank had offered to lend Indonesia $100 million when and as reasonable plans for the expenditure of the monies were presented by the Indonesians. It was ten months before any plans were presented. The Indonesians were simply not capable of preparing adequate engineering plans.

Mr. Holland pointed out that among Far Eastern countries only Japan has adequate numbers of trained technicians and administrators. These could be used in Southeast Asia. There is of course much suspicion of the Japanese in Southeast Asia, but this could perhaps be overcome, especially if the United States issued a declaration to the effect that it was determined to prevent any revival of Japanese aggression. In any case, one way that a Pacific Economic Pact could be made effective would be to assure the utilization of this trained Japanese manpower in Southeast Asia.

Mr. Murphy said that, at least on the surface, the Colombo Plan is one approach to the economic problems of the Pacific area. He questioned, however, the sincerity of British initiative in the development of the Colombo Plan. What the British did in effect was to organize a conference to decide how many American dollars were needed by the countries of South and Southeast Asia. The United States was not consulted. It was finally decided that total requirements for the area reached $6 1/2 billion. Of this amount the countries themselves could provide $3 billion, and Great Britain offered to provied three quarter billion dollars; the balance of $2 1/4 billion must be supplied by the United States.

In short, the conference was calmly deciding how to spend American money without consulting the United States; that is, an attempt is being made to force our hand by presenting us with the fait accompli of a fully elaborated economic plan. Now the British are more experienced negotiators than to attempt such a crude maneuver as this. They know the score in the United States, that American public opinion will resent the attempt to force our hand, that if anything is to be accomplished here the correct approach must be a slow and patient boring from within. This blunt, frontal approach adopted by the British in the Colombo Plan demonstrates their lack of sincerity in promoting the scheme. The purpose of it all is probably an attempt by the British to rehabilitate their prestige, at the expense of the United States, in an area where the two countries are highly competitive.

Mr. Case pointed out, however, that the Colombo Plan does come at a time when the efforts of the United States in the Far East are being subjected to severe criticism both at home and abroad. It is true that Britain's tactics have been bad, but nevertheless it is certainly worth while to take a careful look at the plan. It has certain real advantages. For one thing, it is evidence that the United States is not expected to show all the initiative in international economic programs. Moreover, it is a program in which India and Pakistan are already participating. It is much broader in scope and participation than the Pacific Pact that we now contemplate, and the reaction to the latter will certainly be worse than to the Colombo Plan. The United States has fussed around a great deal in Asia in recent years, but has actually accomplished very little. Regardless of the motives and tactics of Great Britain, we ought to consider very carefully any international economic plan for such a vital region as East Asia, especially when that plan contemplates that the United States need assume less than half of the financial burden involved.

Mr. Murphy asserted that the countries of Asia do not possess enough trained technicians and administrators to carry out any project as grandiose as the Colombo Plan. Mr. Case agreed with this, but said that nevertheless the plan merits careful consideration. It might somehow be possible to meet this problem.

Mr. Case stated that the purport of the evening's discussion seemed to indicate a concensus on the part of the study group that the Japanese peace treaty and a Pacific Pact were advisable even in the absence of any economic agreement for the Pacific region. Mr. Borton queried whether Indian participation would depend on the negotiation of an economic pact as well. Mr.

Holland replied that India's course will be determined largely by what the Indian government assesses the policy of Communist China to be. Mr. Murphy added that India is anxious to be the leader of Asia, and hence is not interested in a Pacific Pact led by the United States.

Mr. Borton queried whether the inevitable economic problems involved in the rehabilitation of Japan necessitate a comprehensive Pacific economic arrangement if those problems are to be solved. Mr. Donham agreed that this might be so. However, it would take a long time to negotiate such an arrangement, and we want a Japanese peace treaty right now. Mr. Murphy added that one way to get India to join such an economic arrangement would be to proceed now with the rehabilitation of Japan. India could perhaps be induced to join the arrangement when it saw the real economic advantages involved in doing so.

6. What should be the function and membership of such a Council? What should be its relationship to the United States, Communist China, Formosa and Korea?

7. Does the inter-relationship of all these problems indicate the advisability of an over-all Pacific Conference rather than separate efforts to have an early peace treaty with Japan?

8. In what ways is the satisfactory settlement of the Korean conflict connected with the Japanese peace treaty?

The final three questions were discussed only briefly and indirectly during the course of the evening.

Mr. Dooman pointed out that up till now the general feeling has been that the manifold problems of the Pacific area should be dealt with step by step. They cannot be solved all at once. Moreover, if Japan is to play a part, it must be independent when it begins to play its role. Hence the need for an early peace treaty. Mr. Borton agreed with this view, but added that as soon as the treaty is completed work must begin immediately on the other problems that have to be faced.

William Henderson
Rapporteur

CONFIDENTIAL

March 21, 1951

FE - Mr. Rusk

Subject: Committees to Work on Financial and Property Questions Involved in the Japanese Peace Settlement

In view of the urgency and importance of the financial and property problems which you raised, and in view of the number of different offices within the Department and the number of different agencies in the Government which will be concerned with the solution of these problems, I agree that it is desirable to establish the two committees you suggest, one interdepartmental and one departmental.

You can count on having the full support of S/S in the furnishing of staff assistance to the chairmen of these committees. Our committee officers customarily perform much more than documentation assistance. They can be counted upon to be of service in planning, assignment of action and, especially, coordination within the Department. We have in mind that this service will be the type of extensive support given to Ambassador Jessup on his CFM Steering Group and John Howard in his work on the Executive Staff of the Foreign Aid Steering Group.

It is not too clear in my mind just what is contemplated as being included in the functions of the "Executive Assistant to the Chairman" to which you refer and I am not sure whether this position is necessary if we provide the type of service suggested above. I would prefer not to recommend anyone for that special post pending trial of an alternative solution. It seems more practical first to see whether the combination of S/S staff assistance in support of junior officers in NA will not be adequate for the purpose.

I agree that Treasury and Defense should be members of the interdepartmental committee, having in mind that at some stage ECA may be brought in. As for the departmental backstop committee, you will probably wish to consider inviting representatives from EUR, OFD, ITP, S/ISA, P, and S/P, in addition to appropriate officers from FE.

There is no need to point out that these financial and property questions are only a segment of a larger group of problems which will arise in connection with the Japanese peace settlement. Other types

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...s of problems will certainly include questions now being dealt ...th by ISAC in other areas of the world and the problem of the ...aning of the return to Japanese sovereignty.

If you agree with my alternative proposal with respect to the "executive assistant" function, I suggest that one of your people get in touch with Mr. Earl Sohm who will assign one of our staff members to work with your NA officers.

W. J. McWilliams

cc - S - Mr. Dulles
A - Mr. Humelsine
G - Mr. Matthews
E - Mr. Thorp

SECRET

MEMORANDUM

14

Published in Foreign Relations, 1951, Vol VI p. 932

March 19, 1951

Subject: Meeting with Far East Sub-Committee of Senate Foreign Relations Committee regarding a Japanese Peace Treaty

Ambassador Dulles, accompanied by Mr. McFall, Col. Babcock and Mr. Tearey, met with the Far East Sub-Committee on the morning of March 19 to go over with it the latest draft of a Japanese peace treaty prior to the anticipated circulation of the draft to the 12 other Far Eastern Commission nations and Indonesia, Korea and Ceylon. The senators present--Senator Sparkman, Chairman of the Sub-Committee, and Senators Alexander Smith and Hickenlooper--appeared to appreciate the opportunity afforded to go over the draft with Ambassador Dulles and to ask questions and offer suggestions regarding it.

Ambassador Dulles first handed the Senators copies of the United States-Japan bilateral security agreement drawn up by the Presidential Peace Mission and the Japanese Government. He explained that the draft was tentative and subject to change but that he wanted the Sub-Committee to have copies for its information. Mr. Dulles then went through the treaty article by article explaining the reasoning behind the various provisions. The principal points raised by the Senators and Mr. Dulles' replies thereto were as follows:

Formosa

Senator Smith noted that Article 3 left the disposition of Formosa undetermined. Ambassador Dulles said that provision for the disposition of Formosa by decision of the General Assembly if the Far Eastern Big Four failed to reach agreement had been made in the United States seven-point statement of principles but that this idea had since been abandoned. He recalled that the United States had secured the postponement of the question of Formosa during the General Assembly because there appeared to be a real possibility that the Assembly would recommend turning the Island over to the Chinese Communists. This still seemed a likely possibility if the Assembly were given jurisdiction over the problem and it had accordingly been thought advisable to leave the status of Formosa undecided.

United Nations Jurisdiction

Senator Hickenlooper inquired whether the United Nations would have any jurisdiction over the treaty, and whether there was any way in which the United Nations or a member thereof could take us to task for anything we might include in the treaty. Ambassador Dulles referred to Article 107 of the Charter, and said that were the Assembly to consider that any provision of the treaty might tend to impair peace and security it would be

empowered

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empowered to discuss it, but that otherwise the United Nations would have no jurisdiction over the treaty. The United Nations would come in only if the treaty brought it in, as in the case of the former Italian colonies under the Italian Treaty.

Ryukyus

In response to questions regarding the Article on the Ryukyus Ambassador Dulles said that it was thought that the treaty should give the United States the right to apply for a trusteeship if it desired. What we should ultimately do with the Ryukyus, he suggested, should be made the subject of a special inquiry, probably including sending someone out there. The United States should not commit itself in the treaty but should simply obtain an option to seek a trusteeship if it desired. Senator Smith noted that the draft would permit the United States to retain control of the Ryukyus indefinitely if a trusteeship were not secured, and inquired whether this would not lay us open to charges of imperialism. Ambassador Dulles suggested that the provision be allowed to stand until the attitude of other countries could be ascertained. Senator Sparkman said that the least we could do would be to let Japan retain the Ryukyus, with the United States receiving the same military rights there that it will in Japan proper.

South Sakhalin and the Kuriles

Senator Smith inquired whether any concessions we might hope to get from the Soviets justified our giving them title to South Sakhalin and the Kuriles in the treaty. Ambassador Dulles pointed out that Article 19 would deny the USSR any benefits under this provision if it were not a party to the treaty. He said that the Defense Department wanted the Soviets to make peace with Japan and thereby terminate their belligerent rights. It had therefore been thought worthwhile to hang out a certain amount of bait, though it did not amount to much in view of the fact that the Soviets now occupy South Sakhalin and the Kuriles. The issue of exactly what constitutes the Kuriles was a further detracting factor. Senator Sparkman inquired exactly what the Soviets' belligerent rights would be if the USSR were not a party to the treaty. Ambassador Dulles replied that technically speaking the Soviets could not under existing agreements place forces in Japan except under the direction of a United States commander, which would of course be unacceptable to them. When Senator Sparkman asked whether this fact was likely to influence the Soviets Ambassador Dulles replied that it was only a technical barrier. The USSR could of course provoke a war at any time if it wished.

Bilateral Treaties

Senator Smith noted that the provision regarding prewar bilateral treaties with Japan did not specifically stipulate that the treaties which

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the Allies indicated they wished to have remain in force should be kept in force by Japan. It also did not specifically provide that treaties not so notified by the Allies were to be regarded as abrogated. It was agreed that the provision should be amended to take account of these points.

Chinese Participation

Senator Hickenlooper asked how it was proposed to handle the question of Chinese participation. Mr. Dulles said that this was a big problem to which no final answer had been reached. In answer to a question by Senator Sparkman, Ambassador Dulles confirmed that the draft would be circulated only to the Chinese National Government and not to Peking.

War Crimes Sentences

At the Senators' suggestion it was agreed that the provision regarding the fulfillment of war crimes sentences should be revised to make it clear that the power to grant clemency should not be exercised except jointly by Japan and the Government or Governments (or in the case of the major criminals, a majority of the Governments) which imposed the sentence in each instance.

GARIOA Claim

Senator Smith inquired where in the draft the priority of our GARIOA claim was preserved. Ambassador Dulles replied that this was automatic with the renunciation of further reparations. Certain other governments would probably be unwilling to accept our position on this question, but it was to be noted that Britain and France had accepted the priority of relief and economic assistance claims against Germany. Ambassador Dulles said that he did not have the remotest idea whether we would ever collect the GARIOA claim but it served as a good buffer against any claims the Soviets might submit if they did not sign the treaty. He said while the United States might not get away with the proposed treaty provisions on this point it seemed worthwhile to try.

Adherence

Ambassador Dulles raised the question of whether it might not be advisable to set a time limit after which states at war with Japan which had not signed the treaty would no longer be able to adhere to it. He pointed out that if there were no such limit a nation could defer its adherence almost indefinitely. He said that he was inclined to favor a limit which would put a certain amount of pressure on the various nations to sign the treaty without prolonged delay, even though they would still be able to conclude a treaty as favorable, but no more favorable, after the limit had expired. It was decided that the draft should be amended to limit the right of adherence to three years.

Inspection

Discussion

Senator Hickenlooper raised the question of whether the treaty should not accord the Allies the right to inspect Japanese industrial activity in areas after the treaty. If there were no such provision and word were received 10 or 15 years hence that the Japanese were producing, for example, large naval vessels the Allies would be unable to investigate the matter. Ambassador Dulles replied that the underlying theory of the treaty was to avoid imposing on Japan conditions not accepted by other sovereign nations. The effective way to ensure against secret activities of the type described was not to write prohibitions or inspection provisions into the treaty but to develop cooperative relations with Japan which would ensure that we would automatically know about any such ulterior moves. United States forces remaining in Japan in intimate contact with the Japanese would seem an adequate safeguard. Ambassador Dulles said that he was absolutely convinced that treaty restrictions would not work and that this conviction was basic to his whole approach to the treaty.

Senator Hickenlooper said that while it appeared to him that Ambassador Dulles was following the right line, this was the first time that he had seen the treaty draft and he wished it understood that his position in the matter was reserved. Ambassador Dulles said that this was fully understood and that his purpose had been simply to acquaint the Senators with the draft and to obtain their suggestions. He emphasized that the text was only suggestive and that he was not seeking approval of any sort at this stage.

Copies to: S - Ambassador Dulles
G - Mr. Matthews
FE - Mr. Rusk
H - Mr. McFall
S - Mr. Allison
RA - Mr. Johnson
Col. Babcock ✓

FE:WA:HAFcarey:re

March 19, 1951

TO: MR. DULLES

FROM: MR. FEAREY

I called Mr. Foley and read him the redraft of Article 10 which you had prepared. He said it appeared entirely satisfactory. I asked him if he had yet prepared a redraft of his own and he said that his suggestion was simply to insert the words "thereupon be continued in force or revived and" after "shall" in the second paragraph of Article 44 of the Italian Treaty. He believed that your draft and his amounted to the same thing and you could use whichever you preferred.

I have entered a few suggestions in pencil on your draft. The master copy, lacking only agreed language on the above, is also attached.

RAF:dadoyle

RESTRICTED

March 13, 1951

Seattle Interest in Establishment of Regular Japanese Shipping Connections between Seattle and Japan.

Laurence A. Knapp, Representative of Seattle law firm, Little, Palmer and Scott.

NA - Mrs. Kalis

NA - Mr. Turner
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Mr. Knapp stated that he had served in ARA in the Department from 1942-46, working at that time with Messrs. Duggan, Braden et al. In 1946 he left the Department to enter the Seattle law firm of Little, Palmer and Scott. Mr. Knapp stated that Mr. Little, who is very close to Senator Magnuson of Washington, plans to discuss with the Senator prior to the Senator's forthcoming trip to Japan (for about 10 days just after Easter) the question of seeing whether a regular Japanese shipping service might not be persuaded to enter the port of Seattle in order to develop trade between the Pacific Northwest and Japan. Mr. Knapp stated that Mr. Little believes it to be important that the shipping side of the Japanese economy be developed, and that this problem should not remain dormant from the standpoint of developing Pacific Northwest interests.

In this connection, Mr. Knapp stated that he was interested in ascertaining on behalf of Mr. Little a number of questions in regard to Japanese shipping and shipbuilding. He stated that he had noted recently in the press that a number of U.S. industrial and labor organizations interested in maritime affairs had made a joint protest to the President against the revival of Japanese shipping and shipbuilding by SCAP. He said that the protest appeared to be somewhat vague and we agreed that it may have been based upon a misconception of developments in Japanese shipping and shipbuilding up to the present time.

In reply

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In reply to his request, we furnished Mr. Knapp with oral unclassified information in regard to the Japanese shipping and shipbuilding situation as it stands at present, namely that Japanese shipbuilding capacity totals roughly 700,000 tons of which about one half is in use; that Japanese shipping tonnage is about 20-25 percent of pre-war figures; that Japanese freighters are engaged principally in tramp freight service at present, which is arranged on an ad hoc basis by SCAP; that the Japanese at present carry about 15% of overseas Japanese trade compared with about 70% carried in American bottoms; that as soon as a peace treaty is signed, Japan will presumably be free to enter into shipping conference and other arrangements.

Mr. Knapp stated that shipping interests are particularly concerned to see that pre-war conditions of conference agreement violations by the Japanese are not permitted to re-develop and that all Japanese shipping is not carried exclusively in Japanese bottoms. He stated that shipping interests would presumably like to have an agreement incorporated into some kind of document regarding percentages of trade to be carried by various interested maritime nations. He observed in this connection that although the shipping interests state that they want international protection in this regard, there is actually no way to secure it, perhaps other than by retaliatory measures in the event of violations.

Mr. Knapp wanted to know whether SCAP is actually running Japanese shipping abroad, and was assured that he does at present under the so-called SCAJAP authority. He asked for the name of someone in Defense with whom to talk on this problem and was referred to Lt. Col. Liesing, OPA.

FE:NA:Gardner:amw
3/19/51

CONFIDENTIAL

S/S - Mr. McWilliams

March 14, 1951

FE - Mr. Rusk

Ad Hoc Committee on Japanese Financial and Property Questions Involved in Peace Settlement.

There are a large number of financial and property questions which must be settled at the time of the Japanese peace treaty or as soon thereafter as possible, some of which can be treated as bilateral matters and some of which require multilateral treatment. It is planned that the preparatory work on these matters be handled within the Bureau of Far Eastern Affairs, in consultation with other interested offices of the Department of State and of other United States agencies.

It is proposed to establish promptly an Inter-Departmental Ad Hoc Committee on Japanese Financial and Property Questions (JAPQ) under the chairmanship of the Department of State, with representation by other Departments according to interest. The Department of Defense and the Treasury Department are the two Departments other than State chiefly interested. It is further proposed that the Director of the Office of Northeast Asian Affairs be Chairman of the Inter-Departmental Committee, and that the Officer in Charge of Economic Affairs of NA be his alternate. By reason of the large number of papers which will have to be prepared and the coordination required both in Washington and in Tokyo, it is necessary to have also an Executive Assistant who will be responsible for the assignment of position papers and the coordination thereof under the direction of the Chairman.

It is believed that it would also be useful to establish an ad hoc departmental working group to support, as necessary, the State Department work in the Inter-Departmental Committee. Assignments of papers and concurrences of the interested offices will, of course, be obtained in accordance with normal State Department procedures.

A substantial amount of the preparatory studies on Japanese financial and property questions can appropriately be done by the staff of GHQ, SCAP. This matter was recently discussed informally in Tokyo by Mr. Hemmendinger of NA with the understanding that a formal request for such activity by GHQ, SCAP, would be made through the Department of the Army. I attach for information a copy of a draft cable from the Department of the Army to GHQ, SCAP, which is now being discussed with the Department of the Army. This draft sets forth two lists of the financial and property questions involved, one for which primary responsibility for the preparation of draft positions would be centered in Washington, and the other in Tokyo.

I attach also draft letters to the Department of Defense and to the Treasury Department with regard to the establishment of an Inter-Departmental Committee and requesting them to nominate representatives.

Action Requested

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Action Requested

It would be appreciated if S/S would approve the committee proposals set forth above, which would of course involve the provision of regular secretariat services, and in addition, designate or recommend an officer to serve as the Executive Assistant to the Chairman of the Committee.

Enclosures:

1. Draft cable from Army Department to GHQ, SCAP
2. Draft letters to Defense and Treasury Departments

cc: S - Mr. Dulles
A - Mr. Humelsine
G - Mr. Matthews
E - Mr. Thorp

FE:NA:NHemmendinger/pm A E NA FE/Ex
FE:STParelman

3/12/51 CONFIDENTIAL COPY

Draft Cable to GHQ, SCAP

SUBJECT: Financial and Property Questions Involved in Japanese Peace Settlement. This msg in five parts.

PART I

State Department has made following proposals with respect to organization of work on financial and property questions involved in peace settlement:

A. Organization of inter-departmental committee on Japanese financial and property questions (JAPQ) in Washington under chairmanship of State, with Executive Assistant responsible under direction of Chairman for assignment of subjects on which position papers required, and coordination after initial drafts prepared.

B. Preparation by GHQ, SCAP of position papers on questions which can best be developed in Tokyo, and assignment of coordinating responsibility within GHQ, SCAP for work to be done in Tokyo.

C. After preparation of preliminary position papers, exchange between Washington and Tokyo for comments, with responsibility for all final position papers in Washington. Position papers to contain statement of facts, with annexes as appropriate, discussion, and recommendations on both procedural and substantive questions.

D. Direct channel of communications on these matters between State Department and GHQ, SCAP. Msgs to bear designations WJAPQ and TJAPQ according to origin. Defense Department coordination to be had through participation inter-departmental committee Washington according to interest.

E. GHQ, SCAP to be kept currently informed of status of treaty clauses bearing on financial and property questions.

PART II

PART II

Contemplated that peace settlement ~~will include in addition to treaty proper and bilateral military agreement~~ as a result there will be a series of agreements, some bilateral and some multilateral on financial and property matters. These proposals relate to latter questions. Possibility that they may be extended to questions of post-treaty financial arrangements, but this not yet decided.

PART III

Following is a tentative list of questions prepared by State Department on which responsibility for preparation position papers should be assigned GHQ, SCAP:

1. Surplus property matters not covered by surplus property agreement.

2. Settlement of any Japanese claims against occupation forces not extinguished by terms of the peace treaty, including claims of UN residents of Japan.

3. Claims of UN nationals for compensation in lieu of restoration intact of UN property in Japan.

4. Claims of UN nationals arising out of pre-war commercial transactions and obligations. Many such claims have been, or may be, discharged in whole or part from Japanese assets seized in countries at war with Japan.

5. Arrangements to either conclude or continue financing of U.S. information program out of Counterpart funds.

6. Arrangements with respect to disposition or settlement for any GARIOA purchases not delivered at time of peace treaty, and for disposition of counterpart funds.

7. Settlement

7. Settlement of claims of residents of Ryukyus arising out of postal savings, etc. and Japanese counter-claims arising out of Japanese assets in Ryukyus.

8. Korean claims under Korean vesting decrees to property in Japan.

9. Claims of other governments to property in Japan arising out of seizure of corporations whose head offices were located in former Japanese territories.

10. Claims of various governments to assets in Japan arising out of existence of Japanese puppet regimes.

11. Continued arrangements for the liquidation and delivery to IARA of German assets in Japan.

12. Payment for non-Japanese properties under land reform program.

13. Claims arising out of war time transactions between Japan and other countries, such as Thai yen credits.

PART IV

Following is tentative State list of questions with primary responsibility assigned Washington:

1. Settlement of Japan's dollar indebtedness to the U.S. arising out of GARIOA assistance (if not covered in treaty).

2. Settlement or arrangements for continued availability of yen credits pursuant to the surplus property agreement. This covers FBO funds and Fulbright funds.

3. Claims of the U.S. and possibly Japanese counter-claims arising out of wages and monies seized from P.O.W.s and internees.

4. Settlement of yen claims by residents of the trust territories

arising

arising out of postal savings deposits, etc.

5. Arrangements with respect to military cemetaries in Japan.

6. Disposition of Japanese assets in Thailand, Germany and neutral countries.

7. Termination of trusteeships of Japanese diplomatic and consular property.

8. Settlement of Japan's present foreign indebtedness arising from issuance of foreign exchange bonds (dollar, sterling, francs).

PART V

Foregoing has Army Department concurrence. Request comments, including any recommended changes or additions above lists, and advice your action.

FE:NA:NHemmendinger:lb;lk
3/12/15/51

CONFIDENTIAL

DRAFT OF IDENTICAL LETTERS TO BE SENT TO THE DEPARTMENT OF DEFENSE AND THE TREASURY DEPARTMENT

In order to facilitate the preparation of studies on financial and property questions involved in the Japanese peace settlement, the Department of State is proposing the establishment of an Interdepartmental Ad Hoc Committee on Japanese Financial and Property Questions (JAPQ), under the chairmanship of the Director of the Office of Northeast Asian Affairs of the Department of State. It is contemplated that the primary function of this Committee will be to arrange the assignment of position papers on the various questions involved to the appropriate officers of the departments of the United States Government in Washington and of GHQ, SCAP, and to supply the machinery for the coordination of the papers into final position papers for the use of United States negotiators. It is further contemplated that the concerned departments of the U.S. Government will be represented in the Committee according to interest. Since the Department of Defense and the Treasury Department appear to be the two other departments most directly concerned in a large number of these questions, initial invitations are being sent only to them. As the need arises for the participation of other agencies, appropriate arrangements will be made.

It is suggested that you designate an officer to represent your Department in the Ad Hoc Committee, and to be responsible for obtaining such coordination within your Department as may be appropriate. Mr. _____ of the Department of State (Code 191, Extension) should be notified of the name of the officer designated.

There is attached for your general information and guidance a tentative preliminary list of the financial and property questions involved in two categories.

CONFIDENTIAL

categories, one on which primary action appears to be required in Washington and one on which primary action can be taken in Tokyo.

Enclosures:

As stated above.

FE:HA:NHemmendinger:lb:lk
3/13-15/51

CONFIDENTIAL

ITP - Mr. Brown

March 13, 1951

MA - Mr. Johnson

Japanese Participation in the International Cotton Allocation Committee.

Reference is made to Mr. Rusk's memorandum of February 20, 1951, to Mr. Thorp regarding Japanese participation in the International Cotton Allocation Committee. In view of the fact that the committee has already been set up and is meeting regularly, it is suggested that an attempt be made by the U.S. representative to sound out informally the views of the other members regarding Japanese participation. The desirability of Japan's membership is set forth in the reference memorandum, i.e. Japan's position as an important consumer of cotton, etc. If there appears to be majority support for Japan's participation, the question could then be placed formally on the agenda.

Although GHQ, SCAP strongly supports Japanese membership in the Commodity Committees, we do not have a clear-cut understanding with the General Headquarters with respect to the character of Japanese representation. It is suggested that this point not be raised initially by the U.S. Representative, and that if it is raised by other representatives the U.S. representative state that it is not yet clear as to how the Japanese Government will be represented.

FE:MA:ALDunning:lk
3/13/51

CONFIDENTIAL

E - Mr. Thorpe February 19, 1951

FE - Mr. Rusk

Japanese ~~Representation~~ Participation on International Commodity Allocation Committees

Pursuant to a conversation which you had with Mr. Hemmendinger of NA on February 9, 1951, I desire to reiterate the interest of FE in assuring Japanese membership in those international commodity allocation committees, in which Japan has a substantial interest.

As you know, it is the position of this Government to foster the maximum degree of economic and political stability in a Japan oriented toward the non-Communist world so that it can make a maximum contribution toward its own internal security and toward the achievement of the objectives of the free world in the Far East. In order to ~~maintain~~ obtain Japan's industries, maintain tolerable living conditions in Japan, and to develop Japan's foreign trade, Japan must be assured of access to raw materials. Such access is directly related to the success of the conversations regarding the peace treaty which recently took place in Tokyo and the ultimate alignment of Japan with the free world.

An important step to assure Japan such access to raw materials, particularly since, except for use of GARIOA funds, most of this trade has been returned to management by the Japane Government, is Japanese participation in those international commodity allocation committees, in which it has a subst

inter

interest. In this connection, it has for some time been the policy of this government to support Japanese membership in international conferences, conventions and agreements.

It will be recalled that the UK has opposed various measures taken by the US and SCAP in the absence of a treaty designed to bring Japan back into international relationships, particularly those of an economic character; viz, (1) opposition to the granting of m-f-n treatment to Japan and to inviting Japan to participate in GATT; (2) opposition to Japan's unconditional accession to the International Wheat Agreement; (3) failure to take any steps leading to the establishment of Japanese overseas agencies in the UK or its colonies for handling trade promotion and quasi-consular affairs.

On October 19, 1950, in an effort to overcome this inertia on the part of the UK, the Dept instructed the Embassy in London to obtain the agreement of the British Foreign Office to take certain concrete steps to assist in the attainment of economic and political stability in Japan, such as those mentioned above. In the course of discussions with Prime Minister Attlee, December 4-8, 1950, President Truman raised in broad terms the question of Japanese participation in international relationships.

As you will note from the foregoing the question of Japanese participation in international relationships has merited consideration at the highest levels.

It appears clear that the importance of Japan as a cotton consuming country justifies Japanese membership on at least the Cotton and Cotton Linters Committee, and probably on the Wool Committee. So far as some of the mineral committees are concerned, the receipt of further statistical information may justify Japan's membership. In this connection it should be noted that in 1948-49 Japan imported 836,000 bales of cotton, in 1949-50 988,000 bales; in August, September, October of 1950-51 - 314,000 bales. In order to maintain the level of production reached in November 1950 - a level which was scarcely keeping pace with the increased demands on Japanese textile production by the US military forces and ECA in support of operations in Korea, Japanese requirements for 1951-52 according to Army estimates, will total more than 1.7 million bales.

The question has arisen as to whether the provisions of certain FEC policy decisions permit Japan's membership in these committees and relaxation of SCAP control matters of commodity imports and exports. It is noted that paragraph 6 of the Basic Post-Surrender Policy for Japan provides that: "Control is to be maintained over all imports and exports of goods and foreign exchange and financial transactions." However, it should be noted that while SCAP may relax certain details of control, in the final analysis he maintains overall surveillance over the functioning of the Japanese Government. Furthermore, while the commodity agreements are directed toward the

allocation

of imports of raw materials in short supply the quota alloted to member governments will be based on the end use of such raw materials. In this connection Japanese participation either on its own or as represented by the US, may not be fully consistent with paragraph 4 of the FEC policy decision on the Conduct of Trade with Japan, November 18, 1948, which provides that: "There should be nodiscrimination against any foreign trade representatives or businessmen in Japan and all should be accorded equality of opportunity to transact business." This particular provision may be raised by the Soviets, since one reason for investigating the end use of such products is to discourage the export to the USSR and Communist-dominated countries. However, ~~it is believed that~~ such type of control is already being exercised by the Japanese Government under the general surveillance of SCAP in accord with his responsibility for the security of Japan and of the occupation forces ~~(note paragraph 1 of FEC policy on Conduct of Trade with Japan)~~.

It is believed that the political considerations favoring Japanese membership in these committees outweigh any possible inconsistencies with FEC policy decisions. Should the British raise this issue, it is suggested that ~~we attempt to keep the~~ discussion on the level of broad political considerations.

The announcement of the formation of these committees, excluding Japan, will no doubt be most unfavorably received in Japan. The explanation that Japan does not at this stage

possess

possess sufficient legal capacity to participate in these committees will not be found convincing, particularly in view of German participation and the fact that Japan is now a member of several specialized agencies of the UN and also the International Cotton Advisory Committee.

The foregoing considerations favoring Japan's membership in these International Commodity Allocation Committees in which it has sufficient interest, appears to justify the Department in taking a strong position in order to overcome possible British objections. It is therefore requested that every effort be made to add Japan to such of the committees in which it has a substantial interest before public announcement is made.

FE:NA:ALDunning:clh

Mr. Allison
(a few changes)
1147

Draft
3/7/51

SECRET

CHAPTER VI

CLAIMS AND PROPERTY

14. Japan admits responsibility for damage caused to the Allied and Associated Powers by the war which was waged by Japan under the now discredited and repudiated militarists who temporarily gained political power in Japan. The Allied and Associated Powers recognize, however, that Japan's capacity to make uncompensated payments in foreign currency or through deliveries of goods or other values abroad, after the ~~currency, or~~ ~~does not enable Japan either~~ to meet its obligations to the Occupying Powers for relief provided and costs incurred by them, or to make adequate reparation to the Allied and Associated Powers for war damage. However:

(a) Japan grants to each of the Allied and Associated Powers the right to retain and dispose of all property, rights and interests of Japan and of Japanese nationals, except the limited categories of property described in Paragraph 1 of the Annex, which between December 7, 1941 and September 2, 1945 were within its territory or within territory, subsequent to September 2, 1945, administered by it under United Nations Trusteeship. In case any Allied and Associated Power has taken property, rights or interests of Japan or of Japanese nationals located within the territory of another such Power, it will account to the other.

(b) Japan will restore, upon demand, within six months from the effective date of this Treaty, the

and Associated Powers note the announced desire of the Japanese Government to provide yen compensation to the extent permitted by Japan's economic circumstances for property lost or damaged by acts taken as a result of the war. (We would suggest to Yoshida that he express such a desire in the Diet some time during the present session.

SECRET

property, tangible and intangible, and all rights or interests of any kind in property, in Japan of the Allied and Associated Powers and their nationals, unless the owner has freely disposed of his property without duress or fraud.

15. Japan waives all claims of Japan and its nationals against the Allied and Associated Powers for action taken during the State of War hereby ended, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied and Associated Powers in Japanese territory prior to the coming into force of the present Treaty.

16. [The Allied and Associated Powers waive all claims of themselves and their nationals for damage caused by the aggression of Japan by land, by sea and from the air.] [In consideration thereof,] such of the Allied and Associated Powers as were Occupying Powers reciprocally waive their claims against Japan for governmental relief provided and costs incurred by them as Occupying Powers prior to the coming into force of the present Treaty; but they reserve the right to claim such repayment in whole or in part as a prior charge to any claim asserted by any belligerent which is not itself an Allied and Associated Power for the purposes of this treaty.

The reparations claims of the Allied and Associated Powers shall be deemed to have been satisfied out of the Japanese assets within their territories and out of assets received by some of them from the Japanese home islands during the occupation.

[S:JFDulles:dad]

February 8, 1951

Ambassador Dulles:

Although the Japanese farm problem has no immediate bearing on the treaty question, it is of course basic to Japanese life and will ultimately be of major significance in the determination of Japan's future course. I believe you would find it worthwhile to read the attached brief study by Shiroshi NASU, Japan's foremost agrarian expert, and the comment therein prepared by Mr. Ladejinsky, Agricultural Adviser in this office. I have marked the more important passages of each.

NASU states that the number of farming households has risen by nearly 700,000 since the war, reducing the size of the average farm from 2.5 to 2.0 acres.

R. A. Fearey

MEMORANDUM

February 8, 1951.

To: Mr. Robert A. Feary

From: Mr. Wolf I. Ladejinsky

Subject: Doctor Shiroshi Nasu's Paper on Rural Japan, Addressed to Mr. John Foster Dulles.

I examined Dr. Nasu's observation and I find myself substantially in agreement with much that he has to say. His points "On Food Supplies," especially the one dealing in stockpiling of a food reserve supply, are well taken. The current food position of Japan is good, one of the reasons being the large food imports from the United States to meet the deficit. Japan would find herself in an extremely difficult food position should a full-scale war break out in the Far East or Europe. A food reserve of not less than three million tons would be adequate to meet such an emergency. As in recent years, most of the food in the form of wheat and sugar would have come from the United States. It would not be safe to depend upon imports of rice from Southeast Asia, should this part of the world be overtaken by international dislocations more serious than the ones we are facing now.

Dr. Nasu is on sound ground when he urges the imposition of import duties on food stuffs. This, of course, has no reference to the stockpiling or Ever-Normal-Granery idea he is, in effect, arguing for. In the future as in the past, Japan must devise some means of protecting the domestic producer in order to avoid the adverse effects of the lower priced food imports. Import duties on food imports are not a burning issue at the moment, but it might well become one under normal availabilities of food imports. It is well to recall in this connection that before the war Japan was compelled to regulate the imports of rice from Korea and Formosa in order to reduce rural distress caused, at least in part, by the inability of domestic producers to compete with colonial rice. The same will hold true of rice and wheat imports from other foreign sources. Clearly, Japanese participation in the work of FAO as a full-fledged member is a good idea. The rich agricultural experience of Japan would benefit greatly the member nations of the organization, and, by the same token, the organization as a whole.

Dr. Nasu's concern about rural overpopulation is shared by all those who are familiar with the country's farm conditions. This observer does not know of any easy, or for that matter, difficult way of solving that problem. If this problem is to be resolved in a satisfactory manner, the solution will come, above all, through an enormous expansion of industry and trade. Dr. Nasu has suggested measures that might alleviate the situation to some extent. I am not certain that over-seas migration is at all feasible; even under ideal conditions it is doubtful whether it could be

carried on in numbers large enough to make any dent in the surplus farm population. On the other hand, the psychological and political effects of permitting some migration abroad cannot be overestimated.

I am in agreement with Dr. Nasu on the need of utilizing Japanese agricultural technicians in underdeveloped or backward rural areas. In many ways, agricultural Japan is not dissimiliar from many another part of Asia or the Middle East. They differ, however, in one basic respect: good farming is common in Japan, while the same cannot be said of most of the countries in the areas just mentioned. The Japanese have a great deal of know-how on the subject of how to grow two blades of grass where formerly one would. Their knowledge of rice culture can be most usefully applied in virtually every rice growing country of Asia. The sooner their talents are put to work in, say, India, Pakistan, Burma, Siam, the Philippines (if possible), et cetera, the greater the certainty that the rice output will be materially raised. It should be noted, too, that the Japanese knowledge in the fields of irrigation, draining and reclamation is of the highest order. For these reasons, it is fair to assume also that the United States Point Four program would benefit greatly from Japan's active technical collaboration.

Dr. Nasu's idea about arranging visits of rural youth to the United States is worth considering. It would not cost much, if anything, while the returns in terms of "public relations" are likely to be considerable. There is a serious farm labor shortage in California and the farmers of that state know that the Japanese make excellent farm workers. It would not be a bad idea, therefore, to raise the question of hiring, on a temporary basis, a goodly number of farm workers, fresh from rural Japan.

I am in no position to comment on the Ryukyu or Bonin Islands.

Tokyo, Feb. 8, 1951.

Mr. John Foster Dulles,
c/o the Diplomatic Section,
G.H.Q.

Dear Mr. Dulles:

Allow me to submit to your attention the enclosed papers which contain some observations on topics related to your high mission here. They represent unanimous opimions arrived at in a small meeting attended by representative leaders in various fields of Japanese agriculture. Their names are listed in the next page. Because of the importance of agriculture and rural people for shaping the nation's future, I felt myself justified in presenting those views to you. It would be my greatest delight, if those papers could be of any service to you.

Taking this opportunity, I would like to express my most sincere admiration and appreciation for what you said in your speech at the Japan-American Society the other day.

Yours very truly,

Shiroshi Nasu

Shiroshi Nasu

Address 415 Setagaya 4-chome
Setagaya-ku, Tokyo

Yasushi Hasumi----------Member of the Credit Policy Board, the Bank of Japan.,
(formerly) Vice-minister of Agriculture, President of the Central Bank of Agricultural Co-operatives.

Einosuke Ishi----------Director of the Japan Agricultural Research Institute.
(formerly) Governor of Gunma Prefecture. Chief of the Food Administration Bureau, Ministry of Agr.

Ryoichi Kishi----------President of the Farm Land Association.

Shiroshi Nasu----------Chairman of the Board of Directors Latin-American Association.
(formerly) Professor of Agr. Policy in Tokyo University, Director of the Japanese Council of the Institute of Pacific Relations.

Eiichi Sakata----------Member of the Parliament.
(formerly) Vice-director of the Price Control Administration.

Seiichi Tobata----------President of the Japan Agrl. Rehabilitation Conference. Professor in Tokyo University.

Seiji Yoshida----------President of the Japan Sericultural Association.

Mototake Yukawa----------President of the Central Bank of Agricultural Co-operatives,
(formerly) Vice-minister of Agriculture, Vice-mayor of the City of Tokyo.

OBSERVATIONS ON THE REQUIREMENTS OF RURAL JAPAN
(A paper to be presented to Mr. John Foster Dulles)

FOREWORD

The future course of Japan can not be properly defined without taking into full consideration views, interests and aspirations of her farming population which comprises about 45 percent of the nation. This paper is meant to covey some of the concerns of rural Japan.

ON FOOD POLICIES

Japan used to import annually about 3 million tons of rice, wheat, flour and soya bean from Korea, Formosa, Manchuria, Australia, Canada and the United States, and also nearly 9000,000 tons of sugar from Formosa before the War. Now, with her population increased by 10 millions compared to pre-war times, she has to import not less than 3 million tons of food merely to keep up the current reduced level of consumption. Despite of her utmost exertion to increase food production at home, this shortage is bound to rise in the years to come because of the rapid increase in population.

Naturally, it is the chief concern of the nation to have the assurance of the minimum food supply requirements at all times. At the same time, Japanese farmers have much apprehension about the free competition of cheap, foreign food, which

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Naturally, it is the chief concern of the nation to have the assurance of the minimum food supply requirements at all times. At the same time, Japanese farmers have much apprehension about the free competition of cheap, foreign food, which

10 million dollars.

D) Import duty on some food

In view of the higher cost of agricultural production here, a tariff on some imported food seems necessary for the protection of Japanese agriculture. Serious deterioration of Japanese agriculture may bring in its wake the downfall of her industry and commerce as well, thus undermining the whole scheme of her economic rehabilitation. It may be noted, that her 37 millions farming population, bent on keeping the newly acquired gains under the Occupation, is the strongest bulwark against the onslaught of Communism.

E) Japan's entry to the Food and Agricultural Organization of U.N.

The eariest entry and representation of Japan in F.A.O. is keenly desired for the sake of coordinating her food policies and agricultural activities with those of other nations.

ON RELIEVING THE POPULATION PRESSURE IN RURAL DISTRICTS

The population pressure in Japan is most manifest in rural districts, and is causing over-parcellization of already small-sized farms. The number of farming households, which had been almost stationary around 5,500,000 for nearly thirty years before the last War, sprung to 5,909,000 in 1947, and to 6,176,000 in 1950. These households now count 37,812,000

people. The arable land per family has decreased from 2.5 acres before the War to 2.0 acres in 1950. In addition to the population pressure, the newly adopted civil code, prescribing the equal inheritance right to farmers' sons and daughters, seems to be accentuating this trend. If the present situation continues, many people are afraid that Japanese villages would become places of poverty-stricken peasants robbed of all benefits grained by the land reform. Some measures ought to be worked out to save the situation. Following are a few suggestions, to some of which American assistance will be most welcome.

A) Revision of the inheritance provision of the new Constitution as applied to rural Japan. A law to that effect must be passed by the Japanese Parliament with the approval of G.H.Q.

B) Fostering such measures of employment, which may absorb a considerable portion of surplus rural population. Development of rural industries, trade, fisheries, transportation, public services and so forth, are the measures in point. American assistance with loan and technique would be invaluable for attainment of that purpose. Restrictions on Japanese export goods in the world market, which we experienced before the War would be very detrimental.

C) Encouragement of all sorts of village industries. To

develope village industries, some allowance of credit, technical guidance and marketing facilities are essencial pre-requisites. American market will be most valuable for the products of Japanese village handicrafts.

D) Some prospect of migration. Birth control may be helpful, but it will not, by itself, solve the entire population problem. Hence, as a partial remedy, or rather for the sake of its psychological effects, some opportunity for over-sea migration might be provided. People will be saved from the feeling of national suffocation. Emigrants might be useful also for opening the market for Japanese manufactured goods.

ON THE COLLABORATION OF JAPANESE AGRICULTURAL TECHNICIANS FOR DEVELOPING ECONOMICALLY BACKWARD COUNTRIES

The mentality, as well as requirements of farming people in Asiatic countries, will be understood by Japanese people who used to live the same sort of living years ago, and who know the ways of applying the fruits of western civilization to their surroundings. There are quite a number of Japanese agricultural technicians who can offer their willing services for the development of agriculture in those countries. Why not allow those experts the opportunities of making themselves useful for the betterment of other nations? Japan has experiences of more than half a century in the application of

agricultural science to small scale peasant farming, in remodelling time-honored agricultural systems, in developing agricultural cooperatives, in carrying out of the farm land reform which is still fresh in our memory. Those experiences might be very profitably exploited by those Asiatic regions for their economic and social development. Needless to say that such work would help to stem the tide of Communism.

ON ALLOWING SOME VILLAGE YOUTHS TO VISIT AMERICA

Up to this time many people in the fields of business, science, law, parliamental and governmental services, education and so forth have been invited to U.S.A. to see the country and study there. But not one working farmer was given such an opportunity. For the sake of establishing a sound rural democracy, we believe that rural folks ought to be offered the same opportunities. Seeing is believing.

The Christian Science Monitor says that there is much shortage of farm labor, amounting to 250,000 men in a certain part of California. Why not use some Japanese Village youths there as transient, migratory helps for a limited duration of say 3 or 4 months? Their earnings might be able to defray their travelling and living expenses, and they can come back with cherished memories and invaluable experiences which they will impart to their brethren. Their number needs not

be necessarily very large, and a few hundred will do miracles. It will give hope, confidense and aspiration to them, and through them to millions of the rural population.

ON RYUKYU AND BONIN ISLANDS

For the benefits of agricultural science, especially for experiments of plant breeding (sweet potatoes) and silk worm breeding, an easy access to those semi-tropical islands is most highly desired. Aside from the question of sovereignty, we hope that, at least the free intercourse to those islands as well as the right of dwelling and being engaged in business might be recognized to us.

FE - Mr. Merchant

January 12, 1951

NA - Mr. Johnson

SCAP Personnel

In connection with our efforts to reduce SCAP personnel, and thereby American interference in Japanese affairs and the influence of the occupation on Japan, I think that the following figures extracted from SCAP's own internal strength reports are of interest.

As of February 1, 1948, the total number of Americans, military and civilian, in GHQ, SCAP: GHQ, FEC; Headquarters and Service Group; and attached installations in Tokyo was 8,410, compared with 12,553 on November 30, 1950. The total number of Japanese employees of the same organizations was 10,132 on February 1, 1948, and 41,435 on November 30, 1950. These figures are not entirely comparable as there has been some variation in the attached installations included. I am having the tables analyzed to obtain exact comparisons, but thought the foregoing preliminary figures would be of interest.

FE:NA:UAJohnson/pm

January 4, 1951

TO: UNP: Mr. H. Meyers

FROM: S: Mr. John Foster Dulles

Thank you for sending me the articles discussing revisions of Japanese laws. I am sure I will find these of interest.

S:JFDulles:kg

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : S: Mr. J. F. Dulles

DATE: January 2, 1951

FROM : UNP: Mr. H. Meyers H.M.

SUBJECT: Law Review Articles Concerning Japanese Legal Reforms.

Attached are two articles discussing revisions of Japanese laws, which I have taken the liberty of sending you. David Wainhouse thought these law review articles might interest you.

UNA:UNP:HMeyers:dr

JAPANESE MERCHANT MARINE

As of 31 Jan 1951 the Japanese merchant fleet suitable for ocean trade consisted of:

72 freighters	423,510 gross tons
10 tankers	96,977
	520,487
Current building program	
19 freighters	110,900
4 tankers	48,000
	158,900
Current reconversion	
6 freighters	41,800
2 tankers	20,184
	61,984
Total ships	113
Total gross tonnage	741,371

The present size of the merchant fleet is very modest when compared with the pre-war (Sept. 1, 1939) size (ships over 1000 tons) of 1,180 ships with a gross tonnage of 5,102,346.

During the period of 1 July to 30 December 1950, the food imports to Japan consisted of 565,000 metric tons with approximately 53 percent shipped in U.S. bottoms. All of the 95,000 metric tons of cotton in the Government Aid and Relief in Occupied Areas (GARIOA) were shipped in U.S. bottoms, as were approximately 75% of the petroleum products.

The size of the Japanese merchant fleet is such that during the fiscal year 1952 but one quarter of Japan's required dry cargo import of 17 million tons can be carried in Jap ships.

CONFIDENTIAL

File Copy

FE - Mr. Emmerson

March 1, 1951

FE - Miss Bacon

Japan and the Uniting for Peace Resolution.

In response to your suggestion there is attached a memorandum concerning the possible application of the Uniting for Peace resolution to the peace settlement for Japan.

The memorandum is background material and presents the relative advantages and disadvantages of Japan's designating certain units for UN service and Japan's requesting the stationing of a Peace Observation Commission in its territory.

The conclusion is reached that while both proposals are open to objection on a number of grounds, it might be desirable to discuss them with the Japanese authorities and that the need for allowing leeway for the designation of units for UN service should be kept in mind in drafting any provisions for the peace settlement relating to Japan's disarmament or rearmament.

cc: FE - Mr. Rusk
Mr. Merchant
Mr. Allison
NA - Mr. Johnson
FEC - Mr. Hamilton

FE:RBacon:fhh

CONFIDENTIAL

JAPAN AND THE UNITING FOR PEACE RESOLUTION

The Uniting for Peace resolution which was adopted by the General Assembly on November 3, 1950 contains provisions which may be of assistance in connection with Japan's rearmament and security problems.

These problems include the following:

1. How is Japan's defense to be assured in view of Japan's expressed determination recorded in its constitution never to maintain land, sea or air forces, as well as other war potential, and of our expressed or implied commitments that Japan shall be and remain disarmed?

2. How is Japan to be assured that its security will be a matter of direct international concern in case it is subjected to aggressive attack by the USSR or Soviet associates?

The Uniting for Peace resolution might assist in connection with these problems in two ways:

(a) Japan might maintain forces available for service as a UN unit or units, rather than reconstituting a national army as such. These forces would also be available for self-defense.

(b) Japan might request that a Peace Observation Commission be stationed in Japan in order to observe and report to the UN if international peace and security is threatened.

There are given below background considerations relating to these two possible lines of action, together with an estimate of the advantages and disadvantages of each of them.

The question whether Japan should rearm, even to the extent involved in the maintenance of units for UN service, is not here examined. For the purposes of this memorandum, it is assumed that it would be desirable for Japan to rearm for purposes of defense.

I. Development of Japan's Armed Forces for Service as UN Units.

A. Section C of the Uniting for Peace Resolution.

The Uniting for Peace resolution, in Section C, "Recommends to the States Members of the United Nations that each Member maintain within its national armed forces elements so trained, organized and equipped that they could promptly be made available, in accordance with its constitutional processes,

for service

for service as a United Nations unit or units, upon recommendation by the Security Council or General Assembly, without prejudice to the use of such elements in exercise of the right of individual or collective self-defense recognized in Article 51 of the Charter".

B. Provisions of the Japanese Constitution.

The Japanese Constitution, effective May 3, 1947, states in its preamble that the Japanese people have "resolved that never again shall we be visited with the horrors of war through the action of government"; and that "we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world". The preamble also states that "we believe that no nation is responsible to itself alone, but that laws of political morality are universal; and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relations with other nations."

Chapter II of the Constitution reads as follows:

"Chapter II, Renunciation of War - Article 9.

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of a nation and the threat or use of force as means of settling international disputes.

"In order to accomplish the aim of the preceding paragraph, land, sea and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized."

Chapter II of the Japanese Constitution and the reference to war in the preamble to that document are directed against Japan's engaging in aggressive war. Maintenance of UN units available for use upon recommendation by the UN or for individual or collective self-defense would not be in conflict with this concept. Such units would have no aggressive intent. UN action in resistance to aggression does not constitute war in the legal sense nor involve the belligerency of the nation.

The prohibition against armed forces or war potential in the Japanese Constitution is introduced by the phrase "In order to accomplish the aim of the preceding paragraph"--i.e., renunciation of war as a sovereign right of the nation and the threat or use of force in settling disputes. While maintenance of armed forces for use as UN units would not conflict with the accomplishment of these aims, it would apparently conflict with the

prohibition

prohibition against armed forces, and amendment of the Constitution would probably be necessary. In such case, the Constitution might be amended by adding a statement that nothing in the Constitution should prevent the maintenance of armed forces for service at the request of the UN or for self-defense.

C. Applicability to Japan as a non-UN member.

The provision in question in Section C of the Uniting for Peace resolution applies only to UN members. Japan's admission to the UN even following a peace settlement--if the USSR is not a party to that settlement--under present circumstances cannot be counted upon for any time in the near future. It would, however, be possible for Japan to act in line with the resolution and in anticipation of UN membership. There would be nothing to prevent the UN from calling upon Japan and other non-members to assist through the furnishing of military units in resisting aggression in the event of future need. Korean forces are now serving under UN command.

D. Relation to Peace Settlement and Article 43 forces.

The peace settlement might contain a provision that Japan might maintain units for service at the request of the UN or for purposes of self-defense. Alternatively, the treaty might contain no provision on the subject of disarmament, but it might be understood that Japan would announce after concluding a peace settlement that the Japanese Government was firmly resolved to contribute to the extent of its ability to the maintenance of international peace based upon justice and order; and that as Japan had no armed forces, it was creating a national security unit in line with paragraph C of the Uniting for Peace resolution.

In any discussions of the proposal with Japan and other states, reference should be made to the inability of the UN so far to implement Article 43 of the Charter relating to the provision of forces under special agreements and of the necessity in the absence of such agreements of making other provision concerning collective security.

Action to provide armed forces even for service with the UN would probably be contrary to express or implied commitments that Japan shall be and remain disarmed. If the setting up of the units were deferred until after conclusion of the peace settlement, however, this problem might be resolved through termination of the occupation and commitments relating thereto.

If units are to be set up for UN service, the size of such units, at least initially, would have to be small. They would be

unable

unable to assume the full burden of Japan's defense in case of aggression. They would, however, be in position to contribute toward that end.

E. Advantages and Disadvantages.

Designation of Japanese armed forces for service as UN units in line with the Uniting for Peace resolution might have the following advantages:

1. This procedure might constitute a more acceptable approach for the Japanese people to the question of rearmament than would the recreation of a national army as such. The maintenance of units for service in repelling aggression would not do violence to Japan's renunciation in the Japanese Constitution of war as a sovereign right and the threat or use of force for the settlement of international disputes, though it would run counter to the provision against maintenance of land, sea and air forces.

2. This procedure would place the problem of rearmament in its proper setting as a necessary concomitant of present day world conditions. Japan would be assuming an obligation recommended by the UN, for UN members, not merely an obligation known to be desired by the US as a means of lessening its protective responsibilities.

3. This procedure would offer a means of stressing Japan's obligations as a member of the international community to be prepared to help itself and to help others.

The procedure might have the following disadvantages:

1. Japan's rearmament within the framework of the Uniting for Peace resolution might be regarded by other countries as the use of UN machinery to mask a rearmament move. This objection is, of course, applicable to the implementation of the resolution by other countries as well as by Japan. Because of our special relationship to Japan and to the Uniting for Peace resolution, the argument might carry greater weight in this case.

2. If this procedure were adopted in the near future while the Korean conflict is still continuing, the Chinese Communists, the USSR and perhaps others might read the step in terms of intended participation of Japanese forces in the Korean conflict. An official statement that Japanese units would not be engaged in Korea might help to some degree to offset this misinterpretation.

There might likewise be apprehension on the part of Japan that we contemplated using Japanese units in Europe or other

areas

areas remote from Japan. Japan as a sovereign nation and a non-UN member would be under no binding obligation to send its units anywhere, but there might be a fear that other pressures to supply military personnel would be applied to Japan which would be difficult for Japan as a practical matter to resist.

3. The creation of Japanese units for UN service might raise many of the political problems involved in Japan's rearmament without affording units of sufficient size to be effective for Japan's defense.

F. Conclusions.

In so far as Japan's decision not to maintain armed forces is based upon a revulsion--for idealistic or practical reasons--against warfare in any and all forms, the maintenance of UN units would not afford a solution. No perfect solution from Japan's point of view, however, is likely to offer. Even if Japan remains disarmed and obtains a protection guarantee from the United States, it strategic position is such that it cannot be confident that it will permanently escape involvement in one way or another in any future Pacific warfare.

In so far as Japan's decision not to maintain armed forces is based upon a desire that Japan should not again engage in aggressive warfare, the maintenance of forces for UN service might afford an answer. The proposal would, of course, be subject to many of the objections--political and constitutional--to which a program of national rearmament as such would be open. It would also be subject to possible misunderstanding and misconception by UN members as an effort to use UN procedures to mask Japan's rearmament program.

Despite these disadvantages, the proposal might afford a useful bridge from disarmament to limited rearmament--if it is decided that Japan should take this step--and might provide a means for educating the Japanese public in the obligations as well as the benefits of membership in the international community as it exists today.

It is suggested that the proposal should be discussed on an exploratory basis with the Japanese authorities to obtain an expression of their views upon it. It might also be discussed informally with concerned friendly powers. It is further suggested that in drafting any provisions for the peace settlement with Japan relating to disarmament or rearmament the importance of allowing leeway for the provision of units for UN service should be kept in view.

II. Stationing

II. Stationing of Peace Observation Commission in Japan.

A. Section B of the Uniting for Peace Resolution.

The Uniting for Peace resolution provides in Section B for the establishment of a Peace Observation Commission which during the calendar year 1951-52 is to be composed of the following 14 members:

China	New Zealand
Colombia	Pakistan
Czechoslovakia	Sweden
France	USSR
India	UK
Iraq	US
Israel	Uruguay

The resolution provides that the Commission "could observe and report on the situation in any area where there exists international tension the continuance of which is likely to endanger the maintenance of international peace and security. Upon the invitation or with the consent of the state into whose territory the Commission would go, the General Assembly, or the Interim Committee when the Assembly is not in session, may utilize the Commission if the Security Council is not exercising the functions assigned to it by the Charter with respect to the matter in question. Decisions to utilize the Commission shall be made on the affirmative vote of two-thirds of the members present and voting. The Security Council may also utilize the Commission in accordance with its authority under the Charter". The Commission is authorized in its discretion to appoint subcommissions and to utilize the service of observers.

B. Request for Commission.

Requests for the stationing of the Commission are not limited to UN members. The way would be open for Japan to request the stationing of such a Commission, at least after the conclusion of a peace settlement. Some question might be raised whether Japan at present was a "state" within the meaning of the resolution. It is believed, however, that Japan would qualify. In any case no doubt on this point would remain among friendly powers after the conclusion of a peace settlement between Japan and the US and other states. There would also be no danger of crossing wires with the FEC or the ACJ after the conclusion of a peace settlement and the dissolution of those bodies.

The Assembly is considered to be in session at present so there would be no question of reference to the Interim Committee.

Authorization

Authorization for the dispatch of the Commission would require the placing of the request on the agenda either of the GA or the SC. From the viewpoint of UN procedures such action would be entirely possible. Consideration of this agenda item would involve a general review of the situation in Japan.

In the Security Council, action on the request would certainly lead to a veto unless the USSR or Czechoslovakia were included in the membership. Depending upon political conditions both international and domestic within Japan, it is possible that the USSR might veto the proposal anyway. In the GA a two-third's majority would be required and would undoubtedly be obtainable.

C. Composition of the Commission.

A fourteen member Commission would be unwieldy as an operating unit. The probability that the Commission would prefer to work through small bodies was anticipated at the time the resolution was adopted and provision for sub-commissions was accordingly included. These sub-commissions would in the normal course be appointed by a majority vote. Selection of a sub-commission for Japan might present certain problems. If the purpose of the Commission is to detect aggressive or subversive designs on the part of the USSR or the Chinese Communists, presence on the Commission of representatives of the USSR and Czechoslovakia would be incongruous. Some other states--India, Israel, Sweden--might be disposed toward a middle-of-the-road approach with a resultant split report. On the other hand, elimination of all uncertain members would lessen the impression of impartiality of the Commission and consequently the world influence of any report which it might present. These considerations might result in a five-member Commission composed possibly of Colombia or Uruguay, India or Pakistan, Iraq or Israel, New Zealand and Sweden. All great powers might be excluded.

D. Activities of the Commission.

The sub-commission could be stationed in Japan with a view to giving full international publicity to any efforts to subvert the Japanese Government from within or to attack it from without. Observers attached to the sub-commission might be stationed in Hokkaido and other areas where efforts of infiltration might be attempted. In case of an attack the sub-commission might be able to furnish reports on developments and report on absence of aggressive preparations on the part of Japan. From a security point of view reports on Japan's lack of aggressive preparations might have disadvantages.

E. Advantages

E. Advantages and Disadvantages.

Stationing of a Peace Observation Sub-Commission in Japan might have the following advantages:

1. It might afford Japan a feeling of international concern for Japan's situation and a sense of security.

2. It would bring Japan into direct contact with the UN.

3. It might have a deterrent influence on the USSR or the Chinese Communists.

4. It would afford the UN current information which might be received with less reserve than reports from SCAP or from US authorities.

On the other hand, it might have the following disadvantages:

1. Presence of the Commission would probably not afford Japan a sufficient sense of security to obviate its desire for defense guarantees from the US.

2. The sub-commission--considering its probable composition--might be unlikely to arrive at an agreed report and the minority report might create confusion and lack of unity in the UN with respect to Japanese affairs. This situation might be heightened if the Secretariat accompanying the sub-commission included persons with Communist sympathies.

3. Japan's request for the Commission would throw open the whole Japanese question for discussion in the UN. This might, however, occur in any case in connection with the conclusion of a peace settlement, etc.

4. The Japanese people might not welcome the Peace Observation Commission. Having attained their independence and having seen the termination of the FEC and the ACJ, they might not wish immediately to welcome another international commission into their midst.

F. Conclusions.

It is believed that in balance the Peace Observation Commission would not prove of sufficient benefit in the present situation to overcome its apparent disadvantages. It might, however, be discussed informally with the Japanese to obtain their reaction. If the Japanese Government should view the idea receptively we might wish to discuss it with other Governments.

FE:RBacon:fhh
3/1/51

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

RECEIVED
FAR EASTERN AFFAIRS
MAR 5 - 1951
ASSISTANT SECRETARY
Department of State

TO : NA - Mr. Johnson

FROM : NA - Mr. Warner

DATE: March 2, 1951

SUBJECT: Possible Liquidation of Allied Council for Japan

Reference: Tokyo's Memorandum of February 19, 1951 on same subject

In view of the fact that the FEC, SCAP and the Allied Council have generally been considered to constitute the regime of control in Japan and since their functions are to a considerable extent interrelated, it would appear inexpedient to attempt to liquidate one of the constituent elements of the regime of control without considering the entire arrangement. Moreover, it is believed that the broad problem has already been approached in that the inflexibility of the present arrangement was one of the factors taken into consideration when it was decided to press for conclusion of a treaty of peace with Japan in the near future.

Even though the Far Eastern Commission and the Allied Council may be considered as having completed their main functions, and even though these bodies may provide convenient forums for Soviet propaganda, they likewise serve our purposes as forums for countering such propaganda.

Membership in the ACJ also serves as the technical reason for the Soviets to maintain representation in Japan since they have never accredited a Mission to SCAP as have 21 other countries up to the present time. Attempted termination of the ACJ at this time would undoubtedly not be concurred in by the Soviet Member, and would possibly raise an issue regarding the Soviet right to maintain a representative in Japan on any other basis. While the same situation may well arise later if the Soviets refuse to conclude a treaty of peace with Japan when such treaty is concluded by the United States and other interested powers, at least at that time the United States would not have to act unilaterally in terminating its connection with those bodies. However, at such time it could successfully terminate the functions of those bodies de facto by refusing to participate in meetings following the conclusion of a peace treaty with Japan, at which time the Occupation will terminate, as will the reason for existence of these bodies.

In addition to Soviet opposition to the termination of the Allied Council, the Commonwealth Governments may also be expected to resent such action. It would appear that a step

such

such as this should be avoided since it might prejudice the successful conclusion of a peace settlement in the near future.

Furthermore, even though these bodies may be regarded as no longer serving any useful purpose, it is considered that they should function as long as the Occupation continues to operate under FEC directives and as long as there remains the possibility that SCAP may wish to use the Allied Council for purposes of consultation and advice.

It appears that Mr. Wellborn's concern is based on the thought that a liquidation of the Allied Council prior to the effective date of the peace treaty would preclude possible difficulties arising as to the status of the Soviet Member. It is difficult to imagine that the elimination of the Allied Council under protest of the Soviet Member would result in the peaceful expulsion from Japan of over 300 Soviet nationals constituting the Office of the Soviet Member of the Allied Council. It would appear that the regulation of the entry into and residence in Japan of Soviet nationals should remain a question to be decided by the Japanese Government after the peace settlement.

Mr. Sebald and Mrs. Dunning concur in the foregoing estimate.

I generally agree. DR

S. de S.

Jma

FE:NA:GWarner:clh
FE:NA:ALDunning

CONFIDENTIAL

See attached bw Atd What are your thoughts? ltr

Tokyo, February 19, 1951.

MEMORANDUM FOR AMBASSADOR SEBALD. [I doubt that this is feasible at this time — WJF]

FROM: Political Section.

SUBJECT: Subject for Consultation in Department.

Problem: Liquidation of Allied Council for Japan.

Discussion:

It would seem appropriate to give consideration to the liquidation, if possible, of the Allied Council for Japan prior to the effective date of the Japanese peace treaty in order to preclude possible difficulties arising from questions of the status of the Soviet Member. It would seem to the advantage of the United States to abolish the ACJ at an early date for its principal function at present is to provide a convenient forum for Soviet propaganda.

The agreement of Foreign Ministers at Moscow in December, 1945 setting up the Far Eastern Commission provides that the FEC "shall cease to function when the decision to that effect is taken by the concurrence of at least a majority of all the representatives including the representatives of the four Powers: the United States, the United Kingdom, the Union of Socialist Soviet Republics, and the Republic of China". The agreement with respect to the ACJ, as published in Occupation of Japan, Appendix 12, does not contain provisions for termination of its functions.

Suggested Action:

Department to explore means of terminating ACJ at earliest feasible date.

ATW
A.T.W.

ATWellborn:of:hh

CONFIDENTIAL

SECRET

7 March 1951

MEMORANDUM FOR: MR. DULLES

SUBJECT: Japan's Importance to the United States

1. Japan is the "work shop" of Asia and is essential to the full economic development of East and Southeast Asia and the off-shore island chain.

a. This was the basis of Japan's East Asia Co-prosperity Sphere".

b. Japan has a potential iron and steel capacity of 7,500,000 tons.

c. Japan has a population of 85,000,000 including the most skilled and disciplined workers in Asia.

d. The subtraction of this economic potential from the "free" world and its addition to the Communist world would upset the present favorable position now occupied by the non-communist bloc.

2. Japan is the key link in the off-shore island chain runnign from the Aleutians through New Zealand.

a. Its absorption by the Communist bloc would probably make untenable our positions in the Ryukyus and Philippines and make the defense of Australia and New Zealand very difficult.

b. Our Pacific defense would be forced back at least to the line Aleutians - Hawaii - Australia and perhaps as far as the West Coast of the U. S.

c. Japan is the broadest base available to us for air attack against eastern Russia and Communist China and forms an important naval base for naval operations (particularly submarines) against the shipping lanes of the East Asian Coast.

3. The psychological effect on the free nations of Asia and the dissident elements in China, of a failure to hold a country which we have been supporting, and training for more than five years in preparation for inclusion in the non-communist world would be very serious.

SECRET

2
CSB

NOTES ON REPARATIONS FROM CURRENT PRODUCTION

Italian Precedent

The Italian Treaty provided for $100 million worth of reparations for the Soviet Union from (1) capital equipment in Italy, (2) Italian assets in Rumania, Bulgaria, and Hungary, and (3) Italian current industrial production. Yugoslavia, Greece, Ethiopia and Albania were to receive $125 million, $105 million, $25 million and $5 million, respectively, from Italian capital equipment and current industrial production.

Italy has thus far paid reparations from current production only to Greece, and that only a small amount. It has been the Italian position that Italian assets in the Balkan countries total $157 million, and hence cover all of Italy's obligation to the USSR. The Soviets have valued these assets at $7 million. Negotiations are now going on under which Italy may agree to pay $10 to $15 million out of current production, the Soviets providing the raw materials in accordance with the Treaty terms. Payments from current production to Greece are largely stalled at present due to Greece's inability to furnish the requisite raw materials to Italy. Except for this difficulty, arising from the recently accentuated world demand for strategic materials, the program for reparations to Greece has worked out fairly well. Plans for the payment of reparations from current production to Ethiopia, Yugoslavia and Albania have never been formulated, mainly due to political factors.

The German Precedent

It was agreed at Yalta that the sources of German reparations should be (1) capital equipment, (2) labor, and (3) current production. Reparations in the form of capital equipment were arranged for at Potsdam but nothing was agreed regarding reparations from current production, largely because the U.S. at Potsdam and earlier at Moscow refused to approve exaction of reparations in this form while it was supporting the German economy. The Soviets in their own zone, however, have taken out a very considerable amount of reparations from current German production, in some cases furnishing the raw materials and in others not. At the Moscow CFM in 1947 the U.S. toyed with the idea of permitting a small amount of reparations from current production from Germany if the Soviets would agree to treat Germany as an economic whole, but the Soviets made it clear that they were unwilling to do this and the idea was ~~formally~~ dropped.

Consideration during first Years of Japanese Occupation

Proposals for reparations from Japanese production were actively considered within the Government and in the FEC in 1946 and 1947. The U.S. position in the FEC was basically that we were willing to consider any proposals along this line which did not add to the burden we were bearing for the support of the Japanese economy nor interfere with the repayment

by

by Japan of the GARIOA obligation to the U.S. In other words Japan must be self-supporting and repaying its debts to us before we would approve reparations from current production.

The principal U.S. objections to reparations in this form were (1) that they would upset the price structure and otherwise interfere with the resumption of normal economic relationships in the Far East, and (2) that they would delay rather than hasten healthy economic development in the recipient countries. The first of these objections has much less validity today, and ~~fairly~~ and firm set of economic relationships having now been built up in the Far East. The second objection persists in considerable degree but might be overcome if the reparations were limited to capital products. Such a program would provide a needed outlet for Japanese heavy industries, would help to develop the area with which Japan must trade in the future, and would promote rather than impair the development of the recipient countries.

Political factors have led the U.S. to approve the payment of reparations by Italy from current production even though those reparations are in some part derived from U.S. aid. It is possible that the same course might be advisable in respect to Japan. Even if the amount of Japan's reparations obligation were specified in the Japanese treaty, as in the Italian Treaty, there would seem to be danger that the program would become a source of dissension between Japan and the recipient countries. There is reason to believe also that such reparations would create complicated accounting procedures within Japan. Further, whatever Japan paid in reparations would be unavailable for rearmament. Reparations from current production have nevertheless worked reasonably satisfactorily on a very small scale in the case of the Italian deliveries to Greece, and particularly if restricted to capital equipment, might prove feasible and advisable.

R.A.Fearey

Outline--Reparations and Property Claims Considerations

U.S. Objectives

1. To conclude a liberal treaty with Japan which will help to attract that country to the side of the free world

2. To secure British, Philippine and Burmese participation in the treaty.

The Treaty Understandings Reached with Japanese Government Include

1. A waiver by the Allies of any further reparations

2. Compensation for damage to Allied property in Japan up to a total of 40 billion yen

Difficulties Arising from these Provisions

1. There appears to be little possibility that the Philippines would sign a treaty containing these provisions.
   (Ambassador Cowen thinks differently if the compensation provision were deleted.)

2. The USSR and Communist China could derive considerable propaganda advantage from a treaty which denied China and other devastated Far Eastern countries any further reparations while satisfying predominantly American and British claims for damage to property in Japan.

3. General MacArthur is opposed to compensation in Japan.

Possible Courses

I. Leave the treaty as described above and as already agreed with the Japanese Government (no reparations and full or partial compensation for damage to property in Japan).

Considerations in Favor

(a) The British would be satisfied

(b) American property holders in Japan would be satisfied

(c) The Japanese would be satisfied

Considerations Against

As stated above under "Difficulties Arising from these Provisions"

II. Preserve the waiver of reparations and also delete any reference to compensation, leaving compensation claims for bilateral settlement without treaty requirement.

Considerations in Favor

(a) The U.S. moral position would be clear--we (and the British) could not be charged by the USSR, Communist China, and the

Philippines

Philippines and Burma with feathering our own nest while denying reparations to others.

(b) General MacArthur would be pleased.

(c) The Japanese would be pleased.

(d) Funds which would have been required for compensation would be available for rearmament.

Considerations Against

(a) The Philippines would continue to refuse to sign a treaty which renounced further reparations (Ambassador Cowen disagrees)

(b) The British would strongly object.

(c) At least some American property holders in Japan would object.

(d) Communist propagandists could derive advantage from the denial of reparations, irrespective of the fact that compensation in Japan had also been renounced.

(e) U.S. efforts to compel Italian compliance with the Italian Treaty compensation provisions would be impaired.

III. Provide for reparations from current production on the Italian model and also for compensation in Japan.

Considerations in Favor

(a) The Philippines could be expected to sign the treaty.

(b) The Communists would be deprived of opportunity to attack the treaty on the reparations question since the reparations provisions would follow the pattern which the USSR approved for Italy.

(c) The British, who would receive both compensation in Japan and a prospect of reparations for Hong Kong and Malaya, would be pleased.

(d) The Japanese economy would be safeguarded by the conditions surrounding the actual delivery of reparations.

Considerations Against

(a) The Japanese Government and people might be strongly antagonistic, jeopardizing the basic object of a treaty--to align Japan with the free world.

(b) General MacArthur would probably be strongly opposed.

(c) The reparations provisions might become a source of continuing dissension between the recipient countries and Japan as the former sought to exact what Japan felt it could not afford to provide, and between the recipient countries and the U.S. as the latter sought to protect Japan from excessive demands.

(d) The reparations provisions, even though actual deliveries turned out to be small, might impede the integration of Japanese productive capacity with that of the free world. To the extent that reparations were paid under this plan they would largely replace commercial exports and would have a disruptive influence on Far Eastern price relationships and on the economies of the recipient countries.

IV. Provide for the distribution in final settlement of reparations claims of Japanese owned gold, silver and precious stones (valued at 200 million dollars), or possibly a portion thereof equal to the dollar equivalent of the yen compensation paid Allied property holders in Japan.

Considerations in Favor

(a) The settlement would be quick and final.

(b) Japanese expanded dollar balances render it better able to spare the gold, silver and precious stones than previously.

(c) Liquid assets of this type would be more welcome to the recipient countries than Japanese manufactured goods.

Considerations Against

(a) All potential reparation claimants, including some which have shown no interest in industrial reparations, would want a share, reducing the amount going to each country to very small proportions, smaller, for example, than the Philippines might be willing to accept in final settlement of their reparations claims.

(b) The FEC countries have never been able to agree on a schedule of reparations shares.

(c) Congress could be expected to object to the distribution for reparations of any Japanese liquid assets not required for Japan's own needs.

(d) In spite of the dollar accumulations in Japan, mainly attributable to unreplaced inventories, Japan will need the gold for a currency reserve or for international payments.

(e) General MacArthur would strongly oppose.

V. Provide for the discharge by Japan in yen equivalent over a period of time of all or a portion of its GARIOA obligation to the U.S., the yen funds thus provided being placed at the disposal of reparation claimant countries for the purchase of Japanese products for reparations.

Considerations in Favor

(a) The demand of the Philippines and Burma for substantial reparations in convenient form would be met.

(b)

(b) Opposition in Japan to the payment of reparations might be reduced by the fact that Japan would ostensibly be paying off the GARIOA claim, which the Government has indicated a desire to do, the payment of reparations being an incidental result decided in its discretion by the U.S.

Considerations Against

(a) Congress might object to giving away GARIOA funds twice instead of recovering at least part of them.

(b) Repayment of all or a large proportion of GARIOA would be a heavy burden on Japan, while if only a small proportion were repayed the share to each reparations claimant country would be too small to satisfy it.

(c) The reparations claimants might still be unable to agree on a schedule of shares.

(d) Such exports would at least in some degree displace what would otherwise be commercial exports and thus impede Japanese economic recovery. This would be accentuated by the necessity for Japan to use foreign exchange for imports of raw materials to produce goods for export under the plan.

The critical question is whether the Philippines would be willing to sign a treaty which made no provision for further reparations but at the same time made no provision for compensation for damage to Allied property in Japan. To nail this issue down as far as possible it might be worth while to cable Ambassador Cowen and request his considered opinion whether the Philippines would or would not be willing to sign such a treaty. It seems unlikely that he would reply in the affirmative unless he were quite certain that events would bear out his judgment.

FE:NA:RAFearey:re

SECRET

Mr. Allison

153

S - Mr. Dulles

March 13, 1951

FEC - Mr. Hamilton

Provisional Draft of a Japanese Peace Treaty

Herewith some comments on technical aspects of the March 12 provisional draft of a Japanese peace treaty, a copy of which Mr. Allison handed me on that date.

Preamble. I would prefer to delete the reference to "internationally accepted fair practices" and to rely upon the statement in Article 8.

Article 3. Should not Japan's renunciation include the Spratly Islands? Japan formally annexed these islands. The United States never recognized Japan's claim. Both France and China have claims to these islands. Rather than to leave the matter unclear so far as Japan's claim is concerned, it would seem preferable that the treaty provide for Japan's renouncing of its claim.

Article 6 (c). Acceptance by Japan of the obligation to give the United Nations "every assistance" seems very broad. Would Japan be obligated under this provision to send Japanese troops to Korea?

Article 10. In the last sentence I suggest that there be added after the words "political treaties" the words "and agreements" to cover the type of agreement (not treaties) Japan made with Vichy France in 1941 under which Japan stationed troops in Indochina and obtained special economic rights there.

Article 14. The Bolivian Government has brought to the attention of the Far Eastern Commission a claim which it wishes to press against Japan for personal mistreatment to which a Bolivian consular officer was subjected during the war. Article 14 as drafted leaves Japan wide open for payment of claims of this type, namely, personal injuries. Should not Japan be more broadly relieved of war claims?

Copies to: NA/Mr. Allison
NA/Mr. Fearey

FEC:MMHamilton:MJ

SECRET

NA - Mr. Allison

NA - Mr. Fearey

December 14, 1950

Japanese Treaty

During the period you were in New York a number of memoranda were received proposing minor changes in the last (September 11) treaty draft. Also you will recall that civil aviation and submarine cables were left hanging last September. On the chance that a complete and fully agreed draft may be needed before too long there follows a synopsis of the various suggestions made and recommendations regarding each. The memoranda themselves are attached:

1. Mr. O'Gara proposes that the following be added as subparagraph (b) to Article 12 to form a combined human rights and reform article:

"(b) Japan also declares its intention to observe the high principles embodied in legislation enacted in Japan during the last five years directed toward an enlightened and democratic educational system, an equitable distribution of income and of ownership of the means of agricultural and industrial production and trade, and the development of free and independent trade unions."

Recommendation: It is recommended that the desirability of such a provision be discussed with Japanese leaders. If the provision is eventually adopted it is believed that the words "and democratic" and "agricultural and industrial" might be deleted.

2. Mr. Deak, Chief of the Aviation Division, reiterates through Mr. Dort AV's desire to have the following provision included in the treaty:

"Japan shall not grant to any nation exclusive or discriminatory rights for the operation of civil aircraft in Japan."

Recommendation: As I recall, it was decided that we would ask the military if they saw any objection to the provision, and if not, that it could be inserted.

3. Mr. Brown, Director of the Office of International Trade Policy, makes three suggestions through Mr. Dort:

a) That the underlined words be included in the first sentence of Article 17, to read:

"Japan declares its readiness promptly to conclude with each of the Allied and Associated Powers treaties or agreements to put on a stable and friendly basis the commercial and trading relations between them."

Recommendation: It is recommended that this suggestion be accepted.

b) That wording be included in the second sentence of Article 17 to ensure that Japanese state trading organizations are operated on commercial principles with fair treatment for all of the Allied powers.

You will recall that it was decided at a meeting with Mr. Dort in Mr. Dulles' office that a provision to this end was not necessary, in view of the fact that Japanese state trading activities are negligible and are not likely to be greatly expanded during the next three years, the effective period of Article 17. Further examination has supported this conclusion.

Recommendation: It is recommended that this suggestion not be accepted.

c) That Japan be obliged in the human rights provision "to observe always the principles of international law in its treatment of aliens and their property". It is stated that this provision would inter alia fill the gap left by the omission of the following paragraph found in earlier drafts:

> "The Government of Japan undertakes to make prompt payment of just and effective compensation to the nationals and companies of each of the Allied and Associated Powers whose property may be taken by the Government of Japan after the coming into force of the present Treaty."

Recommendation: It is believed that possibilities of expropriation of American properties in Japan without just compensation before the conclusion of a US-Japan commercial treaty covering such matters are so slight as to render the proposed provision unnecessary.

4. Mr. Byroade recommends that there be reinserted in the treaty the following provision appearing in the earlier, longer draft:

> "Japan agrees to take all necessary measures to facilitate such transfers of German assets in Japan as may have been or may be determined upon by those of the powers occupying Germany which are empowered to dispose of such assets."

Mr. Byroade believes that omission of this provision "would create a quite serious problem."

Although liquidation of these assets has recently been speeded up to some extent, it is quite possible that some of the knottiest problems (as, for example, where German property rights must be disentangled from Japanese and Allied rights) will not have been settled by the time the treaty comes into effect. If the treaty says nothing about the matter there seems every reason to believe that the Japanese Government will cooperate with the U.S., UK and France, as it is hoped that it will cooperate on much more important matters, to complete the liquidation process, and that it will recognize and respect the title of the new owners. On the other hand, the German Government, which has recently renewed its opposition to the seizure of German assets in Japan, is likely

to exert pressure on the Japanese Government to halt the liquidation process and to release the assets to German officials and businessmen in Japan. As a matter of precision and completeness, and with the object of removing possible sources of discord, there might be more to gain than to lose by including the proposed very short provision. Probably the Japanese would prefer its inclusion so that they may be spared having to decide between conflicting claims of the Allies and Germany.

Recommendation: It is recommended that the provision be discussed with the responsible SCAP officials, and unless they believe it to be unnecessary, that it be included.

5. Mr. McDiarmid proposes that the obligation imposed on Japan by Article 21 to provide compensation for Allied property "lost or damaged as a result of the war" be amended to require compensation only for property "lost or damaged by acts taken as a result of the war."

This change, designed to relieve Japan of claims for damages or loss occasioned by accidental causes or other causes not directly attributable to the war, would constitute a departure from the language of the Axis satellite treaties. Under the present language, taken from the satellite treaties, an Allied owner whose plant had been accidentally burned down or destroyed by a typhoon during the war or occupation might be able to claim compensation on the grounds that if he had been in control of his property he would have taken precautionary measures to prevent the loss, and the loss is therefore "a result of the War". Under the proposed new language he could claim compensation only if the loss was due to a deliberate war act, such as Allied bombing or destruction of the plant by the Japanese to build a fire break.

Recommendation: It is recommended that the proposed change be accepted. It will be noted that the "acts taken" formula is previously employed in Article 18.

6. Mr. Monsma of the Bureau of Inter-American Affairs recommends that the underlined words be included in the first sentence of Article 18 to read:

> "Except as in this treaty otherwise provided, the Allied and Associated Powers and Japan and their nationals reciprocally waive claims against each other for acts taken during the state of war hereby ended, prior to September 2, 1945."

He recommends a similar change in Article 20, so that the first part of this Article would read:

> "Each of the Allied and Associated Powers will have the right to retain and dispose of all Japanese property, rights and interests of Japan and Japanese nationals within its territory..."

Recommendation: While it is believed that this change is not actually necessary it is recommended that it be accepted to remove any possibility of misunderstanding.

Mr. Monsma further suggests that the cut-off date of September 2, 1945 in the above-quoted passage from Article 18 be deleted, or, if that is impossible, that a date not be fixed "until we are sure that such a date would meet the needs of the other American republics." His objection to the cut-off date derives from the fact that "much of the action taken by the other American republics occurred subsequent to this date." He apparently fails to note that Article 20 permits each of the Allies "to retain and dispose of all Japanese property, rights and interests within its territory at any time between December 7, 1941 and the coming into force of the present treaty," with certain standard exceptions. The phrase "Except as in this Treaty otherwise provided" at the beginning of the blanket mutual waiver in Article 18 was included specifically to exempt Article 20 from the waiver.

Recommendation: It is recommended that this proposal not be accepted.

7. The second to last treaty draft, dated August 18, contained a paragraph regarding Japanese submarine cables which, with certain minor changes suggested in a memo of mine of September 8, reads as follows:

> "Japanese submarine cables connecting Japan with territory removed from Japanese control pursuant to ~~Chapter IV of~~ the present treaty shall be equally divided, Japan retaining the Japanese terminal and adjoining half of the cable and the detached territory the remainder of the cable and connecting terminal facilities."

Mr. Dulles did not wish to include this paragraph in the absence of exact, up-to-date information regarding the cables involved, which was accordingly requested from POLAD. This information has been received. The cables as of the present time are stated by the Japanese Government to be as follows:

One from Hokkaido to Kunashiri (southern most of the Kuriles) and from Kunashiri to Etorofu (the next island to the north).
Thirteen from various points in Honshu and Kyushu to points in Korea.
Six from Hokkaido to Sakhalin.
Two to Dairen, thence to Chefoo, thence to Tientsin.
One to Tsingtao.
One to Shanghai.
Two to Formosa direct.
One to Formosa, jumping from point to point along the Ryukyus.
One from Formosa to Amoy.
One from Formosa to Sensekizan (in China).
One from Formosa to Hong Kong.
One from Hong Kong to Hainan.
One from Hainan to Indo-China.
One from Okinawa to Yap.
One from Yap to Menado (in the Celebes).
One from Yap to Guam.
One from Japan to the Bonins.
One from the Bonins to Guam.

Recommendation: It is recommended that the above-quoted provision be included. Cables between Japan and outlying territories not disposed of in the treaty would remain technically Japanese until disposition of the territories was made.

In addition to the above-suggested changes, I understand that a certain amount of redrafting of the territorial and security chapters will be required.

Draft — Cook returns Article 15 (see below

FE:NA:RAFearey:re

DEPARTMENT OF STATE

THE LEGAL ADVISER

SECRET

March 13, 1951

TO: S - Mr. Dulles

SUBJECT: Japanese Peace Treaty

The provisional draft of a Japanese Peace Treaty, circulated with your memorandum of March 12, has been reviewed in the Office of the Legal Adviser. We have the following comments and suggestions:

1. Article 3 provides, in part, as follows:

> "Japan renounces all rights, titles and claims to Korea, Formosa and the Pescadores; ... "

No reference is made here to Korean independence. Presumably this is intended by implication. The article might be clearer in this respect if it read:

> "Japan renounces all rights, titles and claims to Korea, and recognizes Korean independence; ... "

or, simply,

> "Japan recognizes the independence of Korea; ... "

Article 3 also provides for a Japanese renunciation of Formosa and the Pescadores. It does not, however, make any affirmative disposition of these islands. In the September 11, 1950 draft of the treaty the disposition was left up to the Big Four, and, if they could not agree, to the United Nations General Assembly. The new draft would leave the legal situation of Formosa even more uncertain than it is today. It would seem desirable to include an affirmative disposition of Formosa, as by providing that Japan and the Allied Powers would accept the recommendation of the General Assembly.

In the second clause of the first sentence of Article 3, the draft treaty contains a renunciation by Japan of "all rights, titles and claims in connection with the mandate system and deriving from the activities of Japanese nationals in the Antarctic area." It is believed that the word "and", underscored, should be replaced by "or".

The second sentence of Article 3 in the draft treaty provides:

> "Japan accepts the action of the United Nations Security Council of April 2, 1947, extending its trusteeship system to Pacific islands formerly under mandate to Japan."

Since

Since the trusteeship actually came into force only on July 18, 1947, when the United States ratified the agreement, it would probably be more accurate to say in the second sentence:

> "Japan accepts the action of the United Nations Security Council of April 2, 1947, following which the trusteeship system was extended to the Pacific islands formerly administered by Japan under mandate."

2. It is noted that in Article 4 Japan does not renounce title to the islands covered in that Article. Accordingly, the ultimate sovereignty over these islands would still rest with Japan, even in the event of United Nations trusteeship with the United States as administering authority. If it is not contemplated that administration of the islands will later be returned to Japan, it would seem advisable to extinguish all of Japan's claims now.

3. Since the term "Allied Powers" is defined in Article 18 of the draft treaty, and is used generally throughout the treaty, it is suggested that the term "Allies" in the last sentence of Article 6 should be changed to "Allied Powers".

4. The purpose and effect of Article 7 are not entirely clear in the March 12 draft. The article would not add to the international capacity which Japan would enjoy without it. The only effect of the article as now drafted would seem to be in providing some limitation on the right of self-defense; this would be accomplished by the sentence reading:

> "Such arrangements shall be designed solely for defense against armed attack."

This limitation introduces an element of internal inconsistency into Article 7, since the first sentence of the article provides, in part:

> "The Allied Powers recognize that Japan as a sovereign nation possesses what the Charter of the United Nations refers to as the inherent right of individual or collective self-defense ... "

The right of self-defense presumably extends to aggression in all forms, and is not limited to "armed attack".

The second part of the first sentence in Article 7 provides:

> "The Allied Powers recognize ... that Japan may voluntarily enter into a collective security arrangement or arrangements participated in by one or more of the Allied Powers."

This provision, as it stands, would not seem effective to bar Japanese participation in other security arrangements, not participated in by one or more of the Allied Powers.

Article 7

Article 7 would be clearer if worded, in its entirety, somewhat as follows:

> "Japan undertakes not to enter into collective security arrangements other than such as may be participated in by one or more of the Allied Powers. Such arrangements shall be designed solely for defense against armed attack."

5. In Article 8 Japan is to become a party to existing treaties and conventions designed "to promote fair trade practices". It is difficult to tell which treaties or conventions are in mind. The General Agreement on Tariffs and Trade is neither a treaty nor convention, but rather an Executive Agreement; furthermore, its aim is the promotion of "liberalized trade practices" not "fair" practices which in this country at least bears the connotation of laws designed to prevent cut-rate sales on branded items (Feld-Crawford Act in New York, Tydings Act). I do not know of any multilateral treaties or conventions aimed at the liberalized trade practice concept, except perhaps the ITO Charter, which is now dead. Consequently, if this article is designed, among other things, to get Japan into the GATT, it should be changed so that it will refer to "existing multilateral treaties, conventions, and other international agreements ... to promote liberalized trade practices".

6. Article 10 of the draft treaty contains references to "non-political" and "political" treaties. These expressions are likely to give rise to much doubt and controversy, since their meanings -- in the absence of definition -- are by no means clear in international law. Article 10 does not contain any provision or implication that Japan shall be bound by bilateral treaties which are notified to Japan by the Allied Powers. It would seem preferable, therefore, to reword Article 10 along the lines of the comparable provision in the Treaty of Peace with Italy:

> "Each of the Allied Powers, within a year after the present treaty has come into force, will notify Japan which of its prewar bilateral treaties with Japan it wishes to keep in force or revive. Any provision not in conformity with the present treaty shall, however, be deleted from the above mentioned treaties. All such treaties so notified shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations. All such treaties not so notified shall be regarded as abrogated."

7. In Article 12 it is suggested that the words "war crimes" be inserted before the word "sentences" in line 2, in order to make clear that the reference in this article does not cover sentences imposed by military courts on any troops stationed in Japan.

8. In Article 14, the Allied Powers receive the right "to retain and dispose of all property, rights and interests of Japan and of Japanese nationals which between December 7, 1941, and September 2, 1945, were within their territories or within territory, subsequent to September 2, 1945,

administered

administered by any of them under United Nations trusteeship, ... " As it now stands, this provision would not seem to apply to Japanese property in Korea or Formosa and the Pescadores. It might be argued that the first clause in Article 16 would cover the seizures of Japanese assets in Korea and Formosa effected after the war. However, it would seem preferable to deal with this problem specifically in Article 14 if it is intended that Japanese property in Korea and Formosa should be subject to the same measures as Japanese property in the United States, Great Britain, etc. A similar situation exists with respect to the southern part of Sakhalin and the Kurile Islands.

It is suggested that the wording of the second sentence in Article 14 be amended to read:

" ... the right to seize, retain and dispose ... "

Some Japanese property in Allied countries may not have been subjected to vesting prior to the effective date of the treaty.

The second paragraph of Article 14 refers to "industrial property, rights or interests". This is a term of art, referring to rights or interests in patents or trademarks, under both American and international usage. Since patents and trademarks are intangible property rights, they are not capable of being "taken" from the territory of one Allied Power to the territory of another. If the intention of this second paragraph of Article 14 is to cover rights or interests in industrial plants, the paragraph should be revised to read:

> "In the event that any Allied Power has taken physical property of an industrial nature, in which there were rights or interests of Japan or of Japanese nationals, from the territory of another Allied Power, it will account to the other."

The paragraph does not make clear what is to happen as the result of such an accounting. It is not clear that the second paragraph of Article 14 is, in any case, appropriate for inclusion in the Japanese peace treaty, since it involves questions as between two Allied Powers in which Japan would no longer be interested.

9. Article 14 and 16 give to the "Allied Powers" the right to dispose of Japanese external assets, and a waiver by Japan of all claims arising from the war. Article 18 defines "Allied Powers" as those nations which were "at war or in a state of belligerency with Japan, which become parties to the treaty." In earlier drafts, the "Allied Powers" included countries which had severed diplomatic relations with Japan for the purpose of the waiver of claims article. It is believed that there are one or more South American countries which were neither at war nor in a state of belligerency, but which did sever diplomatic relations with Japan. Since such countries took various kinds of action with respect to Japanese property and/or nationals during the war in part at least at our behest, it is suggested that, for the purposes of Article 16 at least, Japan should be required to waive claims with respect to those countries. This could be done by an appropriate amendment to Article 18, or a special clause in Article 16, which I believe was

utilized

utilized in an earlier draft.

10. The new draft of the Japanese Peace Treaty (Article 15) no longer imposes on Japan any obligation to compensate for war losses of Allied property in Japan, except for compensation made under Japanese domestic legislation which will treat Allied nationals not less favorably than Japanese nationals. The reasons lying behind this change in the new draft are understood. It is to be noted, however, that omission from the Japanese Peace Treaty of compensation provisions such as those included in the Italian and satellite peace treaties will make it much more difficult, if not wholly impossible, to secure implementation of the compensation provisions of those treaties. A further consequence of the new draft is that Allied nationals who have lost property in Japan may receive little or no compensation for their losses since the proceeds derived from Allied governments from the liquidation of enemy assets will be entirely inadequate to cover such losses. If Allied nationals are to receive real compensation for property lost in Japan, that compensation under the March 12 treaty draft would have to come from appropriations of revenues made by their own governments, thus transferring the burden of war loss from Japan to the Allied country in question.

11. It is believed that the contents of Article 18 should be confined to a definition of "Allied Powers" and that the provisions regarding ratification and adherence should be treated in subsequent articles. It is suggested that Articles 18 and 21 be redrafted as follows, and that new Articles 22 and 23 should be added:

> "18. Allied Powers, for the purposes of the present Treaty, shall be deemed to be those States at war or in a state of belligerency with Japan and which become parties to the present Treaty."
>
> "21. The present Treaty shall be ratified by the signatory States and by Japan and will come into force as between Japan and other ratifying States when instruments of ratification by Japan and by a majority, including the United States of America as the principal occupying power, of the States which are members of the Far Eastern Commission have been deposited with the Government of the United States of America. If, however, such coming into force has not occurred within ____ months after ratification by Japan, then any Allied Power may at its election bring the Treaty into force as between itself and Japan by notification to Japan and to the Government of the United States of America. The Government of the United States of America shall notify all signatory and adhering States of all ratifications deposited and of all notifications received pursuant to this Article."
>
> "22. Any State, not a signatory to the present Treaty, which is at war or in a state of belligerency with Japan may adhere to the present Treaty after the Treaty has come into force as between Japan and any ratifying State. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the United States of America,

 which

which shall notify all the signatory and adhering States of each deposit."

"23. The present Treaty shall come into force for each State ratifying or adhering after the date of the entry into force of the Treaty on the date of the deposit of its instrument of ratification or adherence."

A signatory clause in the following terms should be added at the end:

"In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.

"Done at _____ this____ day of _____, 1951, in the _____, _____, etc. languages, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and adhering States."

12. Article 19 of the draft treaty, read in conjunction with Article 5, leaves in doubt the status of Sakhalin and the Kurile Islands if the USSR does not become a party to the treaty. For this reason it might be advisable in the treaty to set a time limit beyond which additional states could not become parties, and to make some provision for the disposition of the southern part of Sakhalin and the Kuriles if the USSR had not become a party by the date specified.

Jack B. Tate
Deputy Legal Adviser

CHAPTER VI

CLAIMS AND PROPERTY

14. Japan admits responsibility for damage caused to the Allied and Associated Powers by the war which was waged by Japan under the now discredited and repudiated militarists. The Allied and Associated Powers recognize, however, that Japan lacks the capacity to make uncompensated payments in foreign currency, or through deliveries of goods or other values abroad, either to make adequate reparation to the Allied and Associated Powers or to meet its obligations to the Occupying Powers for relief provided and costs incurred. However:

(a) Japan grants to each of theAllied and Associated Powers the right to retain and dispose of all property, rights and interests of Japan and of Japanese nationals, except the limited categories of property described in Paragraph I of the Annex, which between December 7, 1941 and September 2, 1945 were within its territory or within territory subsequent to September 2, 1945, administered by it under United Nations Trusteeship. In case any Allied and Associated Power has takenproperty, rights or interests of Japan or of Japanese nationals located within the territory of another such Power, it will account to the other.

(b) Japan will restore, upon demand, within six months from the effective date of this Treaty, the property, tangible and intangible, and all rights or interests of any kind in property, in Japan of the Allied and Associated Powers and their nationals, unless the owner has freely disposed of his property without duress or fraud. The Allied and Associated Powers note the announced desire of the Japanese Government to provide yen compensation to the extent permitted

by

by Japan's economic circumstances for property lost or damaged by acts taken as a result of the war. (We would suggest to Yoshida that he express such a desire in the Diet some time during the present session.)

15. Japan waives all claims of Japan and its nationals against the Allied and Associated Powers for action taken during the State of War hereby ended, and waives all claims arising from the presence, operations or actions of forces or authorities of any of the Allied and Associated Powers in Japanese territory prior to the coming into force of the present Treaty.

16. The reparations claims of the Allied and Associated Powers shall be deemed to have been satisfied out of the Japanese assets within their territories and out of assets received by some of them from the Japanese home islands during the occupation. Such of the Allied and Associated Powers as were Occupying Powers [reciprocally] waive their claims against Japan for governmental relief provided and costs incurred by them as Occupying Powers prior to the conclusion of the present Treaty; but they reserve the right to claim such repayment in whole or in part as a prior charge to any claim asserted by any belligerent which is not itself an Allied and Associated Power for the purposes of this treaty.

August 24, 1951

Dear Mr. Yoshimune:

I have your letter of August 16, and am glad to hear from you again.

I am sure that I will get Mr. Dulles's schedule straightened out while we are in Japan, and will make every effort to honor your request.

Your prayers for the success of the Conference are much appreciated.

Sincerely yours,

John Foster Dulles

Mr. Abe Yoshimune,
The Christian Center Building,
Ginza,
Tokyo, Japan.

S:BOIDAY

August 18, 1951
The Christian Center
Building, Ginza,
Tokyo, Japan.

Hon. John Foster Dulles
The Department of State,
Washington, D.C., U.S.A.

Dear Mr. Dulles:--

It is my privilege to inform you that Mr. Jiro Hoshijima, one of the members of the Peace Deligation from Japan, is a Christian and a member of the Reinanzaka Church in Tokyo.

Since the pastor of the Reinanzaka Church is in Europe now, May I take this opportunity to ask you to meet and talk with Mr. Hoshijima as he is the only Christian member of the Japanese Deligation?

Just before the Pacific War, when I was the Chairman of the National Christian Council of Japan, you may remember that we exchanged cablegrams endevouring to preserve peace in the Pacific.

We, protestants here, are holding prayer meetings that God may bless the San Francisco Conference.

Sincerely yours, Y. Abe

Y. Abe
Former Bishop of the
Methodist Church of
Japan.

S-Mr. Dulles

DEPARTMENT OF STATE

MEMORANDUM OF TELEPHONE CONVERSATIONS

DATE: August 21, 1951

SUBJECT: Japanese Art Exhibits in San Francisco

PARTICIPANTS: Dudley G. Poore, IEP — Muneo Sakaue, DRF
Daniel C. Buchanan, FE/P — Daniel C. Buchanan, FE/P

COPIES TO:

S = Mr. Dulles	DRF = Mr. Coolidge
MA = Mr. Johnson	DRF = Mr. Sakaue
MA = Mr. Overton	FE/P = Mr. Connors
IC = Mr. Hunt	FE/P = Mr. Busick
IEP = Mr. Poore	Army = Col. Hagen

Mr. Poore reported that he had talked with Mrs. M. W. Jenkins of his staff at San Francisco, and had unofficially received the following information:

The Japanese Art Exhibit is under the sponsorship of the Board of Directors of the M. H. deYoung Memorial Museum, Golden Gate Park, San Francisco. Dr. Walter Heil (tel. Bayview 12067), the director of the museum, has been in direct communication with General Ridgway regarding the project. Since among the art objects to be shown there are a number of national treasures the approval of the Diet has been obtained to bring them to the U.S.A. Mr. Harada, the director of the Tokyo National Museum, arrived in San Francisco on August 17th to take charge of the art objects and to arrange for their effective display. Much publicity has been given in Japan to the whole project.

Mr. Sakaue of DRF has furnished the following additional information which he obtained from Tokyo newspapers:

Mr. Seichiro Takahashi, Chairman of the Cultural Treasures Preservation Commission is leading the Japanese Art Mission to San Francisco and will fly from Japan on August 30. He will stay in the U.S. until sometime in October. In addition there will be four or five technical experts who will be in charge of various sections of the exhibit such as paintings, sculpture, textiles, etc.

FE/P:DCB:asb

S - Mr. Dulles

RESTRICTED

FE - Mr. Rusk

August 15, 1951

NA - Mr. Johnson

Japanese Participation in Peace Treaty Conference

Mr. Teraoka, head of the Japanese Overseas Agency at New York and senior Japanese official in the United States, called on me today to state that he had received instructions from Tokyo to proceed to San Francisco for the purpose of setting up, in conjunction with the Overseas Agencies on the west coast, headquarters in San Francisco for the Japanese Delegation. He desired to obtain information on physical arrangements for the conference as well as on the Japanese role therein in order to carry out his duties.

I referred him to IC for information on physical arrangements.

With regard to the Japanese role in the conference, I told him that we were still in the process of formulating our views and had not yet discussed the matter with the Japanese Government, but that when we had done so I would give him all possible information. He fully appreciates the delicacy of the Japanese position at the conference, is anxious to work with us, and desires our advice. He raised such questions, for example, as whether the Japanese Delegation would be present from the opening of the conference, whether Yoshida should seek to see the President, the handling of Yoshida's relations with the American and foreign press, whether the Japanese Delegation is going to be invited to any of the social events, etc.

This points up the need for our determining the position and role of the Japanese Delegation in as much detail as possible and for having Sebald discuss the matter in Tokyo so as to eliminate misunderstandings and reduce the impact of any unpleasant surprises the Japanese may have in store for them.

I suggest that we discuss this with Mr. Dulles and IC at the earliest opportunity.

Mr. Teraoka also sounded me out on a visit by Yoshida to Washington, ostensibly on the basis of Japanese press speculation that he had seen. I told him that I knew nothing of any plans for such a visit and expressed doubt that it would be opportune at this time. Mr. Teraoka expressed entire agreement and stated that he felt that any visit of this nature would be much more desirable following the coming into effect of the treaty.

Copies to:
S - Mr. Dulles ✓
IC - Mr. Kelchner

FE:NA:UAJohnson/pmh

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10-20-50
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TOAR, TOKYO - MACARTHUR

FOR DONALD

JAPAN SEA

SECRET FOR DULLES.

Ambassador's C 6926 NOV 24 reports private communication with Yoshida concerning desire of JAP GOVT to take some formal expression of gratitude to US for its action in connection with Peace Treaty. FM inform GEN Ridgway that I concur with his statements to Yoshida as set forth in REPTEL, and that I suggest that any such JAP expression of gratitude NOT be made after not after signing of Treaty. This can easily be done at that time. With particular reference Yoshida's possible visit Washington we agree he SHD return Tokyo soon as possible POST signing without visiting Washington.

Acting

DeJAAllen:mo
Aug. 24, 1951

John W. Allen

EA

FE

CONFIDENTIAL

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STANDARD FORM NO. 64

Delegation Japan Part

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Dulles

DATE: August 11, 1951

FROM : IC - Warren Kelchner

SUBJECT: Japanese Attendance at Peace Treaty Conference in San Francisco

Mr. Ando of the Japanese Overseas Agency in Washington informed this Division today that twenty members of the Diet will come to San Francisco to witness the Conference. It is probable that they will travel in the same airplane chartered from Pan American Airways to bring the Delegation to San Francisco, departing from Tokyo on August 31.

It is understood that these twenty persons will have no connection with the Japanese Delegation and will be merely spectators. Mr. Ando has been informed that they will be given seats in the Opera House.

There are now five groups totaling 60 persons in the United States under the aegis of the U.S. Army's re-orientation program to bring members of the Japanese Diet and Government officials to this country for short escorted tours. The Army has requested that seats be provided for these persons who signify their intention to be present.

cc - FE - Mr. Rusk

UNA:IC:FDHunt:gg

S - Mr. Dulles August 11, 1951

IC - Warren Kelchner

Japanese Attendance at Peace Treaty Conference in San Francisco

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cc - FE - Mr. Rusk

UNA:IC:FDHunt:gg

Air Priority
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(Security Classification)

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FOREIGN SERVICE DESPATCH

FROM : USPOLAD, Tokyo

179
DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

August 2, 1951
DATE

REF : Deptel 134, July 27, 1951

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	REC'D AUG 7	INFO OTHER	

SUBJECT: Japanese Translations of Peace Treaty Draft

There are enclosed as requested by the reference telegram twelve copies of the Japanese translation of the Draft Treaty of Peace with Japan, prepared by the Ministry of Foreign Affairs and released to the press in Japan on July 13, 1951, together with amendments released on July 20, 1951.

For the Political Adviser:

Niles W. Bond
Acting Counselor of Mission

Enclosures:
12 copies of Japanese translation of Treaty Draft, with amendments

REFian:fm

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FORM DS-322

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[illegible]

MURPHY, TOKYO - FOR DILLON

READ

FOR MURPHY FROM DULLES

On assumption you communicated substance MYTEL 54 July 11, to Yoshida and take appropriate occasion to express to him my personal gratification that we will be hearing the SCAP's views at the Conference. I look forward very much to seeing him again.

[illegible]

[illegible]
7/13/51

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FOR MCCARDLE FROM DULLES

After informing GOM PM also FOL written communication to Prime Minister Yoshida

Begin Verbatim text Sir Oliver Franks has the honor to acknowledge your letter of July 13, 1951 with reference to your Govt's readiness to participate in an ANZUS conference which might be called for the signing of a Peace Treaty between Allied Powers and Jap. The Govt of the US appreciates this assurance that the UK Govt is prepared to send duly accredited delegates to such a conference.

Sir I am have the honor to advise you on behalf of my Govt that the proposed conference will be convened at San Francisco, Cal on Sep 4, 1951 for the purpose of signing a Treaty of Peace on the basis of a text jointly sponsored by the Govts of the US of A and His Majesty's Govt in the UK. This text will be finalized on Aug 20, 1951 on the basis of the draft of July 20, 1951, enclosed herewith, with such changes, if any, as may result from further consideration up to that date.

Yours

John Foster Dulles

Washington
July 13, 1951

CONFIDENTIAL

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JAPANESE PEACE TREATY

0-20-50
ORM-25-522A

OUTGOING TELEGRAM DRAFTING OFFICE COPY

[illegible]

CONFIDENTIAL

[illegible]

FOR the GOVT of the US has the honor formally to invite the GOVT of JAP to be represented at that Conference for the purpose of signing, on behalf of JAP, such a Treaty of Peace. The GOVT of the US will appreciate being advised in due course of the names of the delegates who will attend and act on its behalf. [illegible]

In connection with foregoing, you will hand copy of July 20 draft based on Department 57, July 15 and you will advise him of the names of delegates being appointed by the Allied as set out in Department 59, July 10. The foregoing invitation may be public.

CONFIDENTIAL

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : FE - Mr. Allison

DATE: January 10, 1951

FROM : FE - Miss Bacon

SUBJECT: Relinquishment of Claims to Territory by Treaty.

In connection with the possible treaty provision which you mentioned yesterday relinquishing claims by Japan over Formosa, you are probably aware of the precedent in the case of Cuba. In the Treaty of Peace of 1898 between the US and Spain, the first Article provides as follows:

> "Spain relinquishes all claim of sovereignty over and title to Cuba.
>
> "And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property."

FE:RBacon:fhh

SECRET

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

170 JPT 9

TO : NA - Mr. Allison

DATE: Jan. 10, 1951

FROM : NA - Mr. Fearey RAF

SUBJECT: Japanese Treaty

Herewith two copies of the altered wording summary of the September 11 treaty draft.

I checked with Miss Whiteman, Legal Adviser to ARA, who said that Columbia, which we had been told only severed diplomatic relations with Japan, formally advised the U.S. in February 1945 that it was at war. Peru and Venezuela, which declared a state of belligerency against Japan, we have always included as prospective original signatories of the treaty, a state of belligerency being tantamount to a state of war. That leaves only Bulgaria, Rumania and Finland which merely severed relations with Japan, and it would seem unnecessary to make special provision for these nations in the treaty. I have accordingly omitted provision for nations which broke off relations in the summary.

Reading over the sentence at the top of page 2 of the attached, it seemed that the word "could" would not be entirely clear, as of course Japan can establish defense forces if the treaty does not prohibit them. I suggested "may" in pencil.

FE:NA:RAFearey:re

MEMORANDUM

In elaboration of the United States seven-point statement of principles regarding a Japanese peace treaty handed representatives of the nations members of the Far Eastern Commission, it is suggested that the treaty would follow these general lines:

1. It would formally end the state of war between the Allied and Associated Powers which adhered to the treaty and Japan.

2. It would restore full sovereignty to Japan.

3. It would bind Japan to apply for membership in the United Nations and the Allied and Associated Powers to support its application.

4. As regards territory, the treaty would require Japan to renounce all interest in Korea, Formosa and the Pescadores and to accept a United Nations trusteeship with the United States as administering authority over the Ryukyu and Bonin Islands. Japan would accept the establishment of the Trust Territory of the Pacific Islands.

5. As regards security, the treaty would require Japan to accept the obligations of Article 2 of the Charter of the United Nations and the other parties would undertake reciprocally to be guided by those same principles with relation to Japan. Continuing cooperative responsibility between Japanese facilities and U.S. forces would be provided for as a further guarantee of peace and security in the Japan area. The facilities required, rights of movement of the garrison forces, sharing of costs and similar questions regarding the detailed implementation of the security arrangements would be the subject of a supplementary bilateral agreement between the United States and Japan. Forces of other treaty Powers might also cooperate by agreement with the United States under over-all United States command. The garrison forces would not have any responsibility or authority to intervene in the internal affairs of Japan, except at the request of the Japanese Government to assist in the suppression of internal violence. ~~While~~ the treaty would neither prohibit nor specially authorize

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the establishment of Japanese defense forces, the United States hopes that Japan can shortly begin progressively to assume a larger part of the burden of its own defense. The treaty security provisions would remain in effect until the Powers providing garrison forces agreed that assumption of responsibility for Japanese security by the United Nations or some other security arrangement could be safely substituted.

6. In the political and economic fields, Japan would (a) declare its intention to secure the fundamental human rights to all persons under Japanese jurisdiction; (b) agree to adhere to multilateral treaties designed to prevent the misuse of narcotics and to conserve fish and wildlife; (c) agree to the revival of prewar bilateral treaties by mutual agreement of both parties within six months; and (d) renounce all special rights or interests in China. The power to grant clemency, reduce sentences, parole and pardon with respect to war criminals incarcerated in Japan would be exercised jointly by Japan and the Government or Governments which imposed the sentences in each instance and, in the case of persons sentenced by the International Military Tribunal for the Far East, by Japan and a majority of the Governments represented on the Tribunal. Pending the conclusion of new commercial treaties, Japan, during a period of three years, would extend most-favored-nation or national treatment, whichever is more favorable, on a reciprocal basis to the trade and business of the Allies, subject to normal exceptions and reservations permitted in the General Agreement on Tariffs and Trade.

7. All parties would waive claims arising out of acts taken during the war prior to September 2, 1945, except that (a) each of the Allied and Associated Powers would retain and dispose of Japanese property within its territories, except diplomatic and consular

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8. Disputes concerning the interpretation or execution of the treaty not settled through the diplomatic channel, except disputes arising out of the security arrangements, would be referred for decision to the International Court of Justice, all of the treaty signatories undertaking to comply with the decisions of the Court. A specially established Arbitral Tribunal appointed by the President of the International Court of Justice from nationals of countries which were neutral in World War II would settle claims disputes. Disputes in connection with the security provisions would be settled through the diplomatic channel.

The foregoing outline is only suggestive and does not commit the United States Government with regard to content or language.

12

Mr. Allison
WC/Rhee

SECRET

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Department of State,

Washington, January 12, 1951.

SECRET

JAPANESE PEACE SETTLEMENT

1. On September 14, 1950 President Truman announced (Tab A) that the U.S. Government believed that an effort should again be made to achieve agreement on a Japanese peace settlement and that he had authorized the Department of State to initiate informal discussions in the matter, in the first instance with those Governments represented on the FEC.

2. The following day Mr. John Foster Dulles, Consultant to the Secretary in charge of the treaty project, held a background press conference. Noting that Japan now exists as a power vacuum, he said that the U.S. hoped to work out with the Japanese some arrangement whereby after the treaty comes into effect and the occupation is ended there would continue to be an American force in Japan. This would not be an occupying force but a force which would have much the same position in Japan that American forces in Britain and other sovereign countries have in those countries. There is no desire at all, he stated, to have what might be called American bases in Japan which would in a sense be American points of offensive power. At the same time, he continued, no restrictions upon rearmament by Japan are contemplated should the Japanese people wish to rearm. On the matter of procedure Mr. Dulles said that there had been no decision whether or when there will be a peace conference and that conceivably the whole matter might be conducted very largely through diplomatic discussions.

3. In the course of the 1950 General Assembly Mr. Dulles and Mr. Allison, Director of the Office of Northeast Asian Affairs, outlined U.S. views on the substantive and procedural problems of a treaty to representatives of all of the Far Eastern Commission countries and to Indonesia. Our views were given to the Ambassador of Ceylon in late December (Tab B). Each representative was handed a preliminary and tentative seven-point statement of the type of treaty envisaged by the U.S. (Tab C). The U.S. proposal that there be no military restrictions in the treaty were opposed in these initial discussions by Australia, New Zealand, the Philippines and Burma, although it appeared that both Australia and New Zealand would withdraw their objections in return for an adequate U.S. guarantee of their security. Burma's opposition appeared to be purely nominal. Objections to the waiving of reparations were voiced by the Philippines, China, Burma, Australia and New Zealand, although all these nations appeared to recognize the inevitability of the step. The Netherlands and French representatives appeared to be substantially in accord with our views. The United Kingdom representative did not comment at any length but suggested that the treaty should include provisions which would "reduce Japan's impact on the commercial relations existing in the Far East." There were some not very firm

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4. By mid-January 1951 formal responses to our approach had been received only from the Soviet, Chinese and Indian Governments. The

Soviet

Soviet reply (Tab C), while phrased as a request for clarification of our views, took issue with the U.S. on all the more important treaty issues, and was clearly designed as a propaganda instrument. It was contended that USSR and Communist China must be parties to the treaty, that the disposition of Formosa and the Pescadores, Southern Sakhalin and the Kuriles had been determined at Cairo and Yalta, and that there was no basis in these documents for a U.S. trusteeship over the Ryukyus and Bonins. Assurances were requested that the occupation forces would all be withdrawn within a period of months after the treaty, that the recreation of Japanese armed forces would be forbidden, and that no U.S. military "bases" would be retained in Japan. The U.S. in its reply (Tab E) rejected the view that one or two nations should be permitted to hold up a peace settlement with Japan indefinitely until the document met their particular views. It went on to state that the territorial provisions of Cairo and Yalta were subject to confirmation in the peace settlements, where the views of other Allies and obligations subsequently assumed in the United Nations Charter should be taken into account; that the Potsdam Declaration specifically provided for disposition at the peace conference of unnamed minor Japanese islands such as the Ryukyus and Bonins; and that it would be entirely proper for Japan to participate with the U.S. and other nations after the treaty in arrangements for individual and collective defense, such as are envisaged in the UN Charter, particularly Article 51. On December 4 the Foreign Minister of the People's Republic of China issued a statement strongly attacking the U.S. seven-point statement of principles (Tab F).

The Chinese Ambassador informed Mr. Dulles on December 19 (Tab G) that his Government was in general accord with the U.S. treaty views. He said that it accepted the security provisions contemplated and establishment of a U.S. trusteeship over the Ryukyu and Bonin Islands. The Chinese Government was prepared to make no reparations claims provided all other nations did the same. It was the Ambassador's understanding that even though the future disposition of Formosa was left unsettled Japan would renounce its title to Formosa in the treaty.

On December 21 the Indian Ambassador left with Mr. Dulles a statement of her Government's preliminary views on the U.S. seven-point memorandum (Tab H). India agreed with the U.S. on the admission of Japan to the UN and with our proposals on commercial questions. It was willing to forego further industrial reparations, but raised the question of whether Japanese owned gold and Japanese assets in neutral countries should not be distributed for reparations. At the same time India favored including the Central People's Republic of China among the treaty participants; desired Formosa and the Pescadores to be turned over to Communist China without awaiting a treaty; argued that disposition of Southern Sakhalin and the Kuriles had been decided at Yalta and should not be reopened; acquiesced in a U.S. trusteeship for the Ryukyus and Bonins, believing, however, that their return to Japan should be considered at the peace conference; and opposed retention of Allied forces in Japan or Japanese rearmament after a treaty, proposing instead that Japan be demilitarized and its security guaranteed by the UN.

While no direct response to our proposals was received from the British, a high Foreign Office official told a member of our Embassy on December 9 (Tab I) that his Government now considered that time no

longer

longer allowed of the negotiation of the rather involved and detailed type of treaty envisaged at the Canberra, Colombo and London Commonwealth Conferences. By the time such a treaty could be concluded Japan might be lost to the West. A more practicable procedure would be to conclude the briefest sort of liberal, non-restrictive treaty which would do little more than end the state of war and permit Japan to apply for entry to the UN and other international bodies. Such a treaty could be quickly negotiated and would be difficult for the USSR to oppose. On December 29 the principal British representative in Japan informed our Political Adviser that Britain had abandoned former ideas of restrictions, controls, and inspections. While it intended to advocate restrictions to eliminate what it considered excess Japanese shipping and shipbuilding capacity and provisions regarding Japanese owned gold, even its views on these matters would probably not be pressed. Britain favored Japan's rearming as rapidly as possible, with U.S. financial and material aid (Tab J).

5. The entry of Communist China into the Korea War rendered action to prevent the absorption of Japan into the Communist orbit and to accomplish its definite commitment to the side and cause of the free world increasingly important and urgent. There was reason to believe that with Communist power closing in upon them, and also upon their normal sources of food supply in Indo-China, Siam and Burma, Japanese leaders would become increasingly doubtful of the wisdom of a definite alignment with the non-Communist nations, except perhaps on conditions of U.S. military and economic support which it would be difficult to meet. At the same time the British gave evidence of a desire to seize the initiative in respect to a Japanese treaty in order to adapt the settlement to their own Far Eastern policies, differing in many essential respects from our own. If Japan was to make its stand on the side of the non-Communist world the terms on which it was willing to do so had to be ascertained without delay to see whether the price was practicable and worth paying. It seemed clear that the U.S. would have to arrive quickly at basic decisions with respect to the forces it was willing to commit to the defense of the island chain of which Japan is a part, with respect to the lengths to which it was willing to go to assure the economic survival of Japan without dependence upon Communist mainland areas, and with respect to the prompt restoration of Japanese sovereignty through the conclusion of peace. The Chinese representation problem and differing views among friendly nations on the security provisions of a treaty posed the possible necessity of a number of bilateral treaties between the Allies and Japan as nearly identical as possible and signed at the same time.

6. On January 10 the President approved a joint recommendation of the Secretary of State and the Secretary of Defense that a Presidential Mission headed by Mr. Dulles be sent to Japan to ~~conduct~~ negotiations which it was hoped would form the basis of a settlement firmly aligning Japan with the free world. On January 12 Mr. Dulles acquainted the British Ambassador with current U.S. thinking on the Japanese treaty question and with the purpose of his Mission (Tab K). In a conversation with Mr. Malik on January 13 he made clear that he was going to Japan merely for the purpose of ascertaining Japanese views and that no agreements would be reached (Tab L).

FE:NA:RaFearey:re
1/16/51

January 18, 1951

TO: Mr. Charles E. Wilson

FROM: Mr. John Foster Dulles

At the request of the President, made on the basis of the joint recommendation of the Secretary of State and Secretary of Defense, I am proceeding to Japan with a view to discussing a Japanese peace settlement. As stated by the President in his letter of appointment and instruction of January 10, 1951, "our principal purpose in the proposed settlement is to secure the adherence of the Japanese nation to the free nations of the world and to assure that it will play its full part in resisting the further expansion of communist imperialism." In this connection, I think that it is indispensable that I be in a position to give in Japan assurances to the effect that the United States does not intend that its military preparedness effort shall so monopolize essential war materials as to prevent Japan from being one of the busy work shops of the world.

As you know, the economic situation in Japan is precarious as a result of Communist control of what have been Japan's principal markets and principal sources of raw material. Also it is well known that Soviet Russia particularly covets the addition to her war potential of the very great industrial power of Japan and Germany.

If the industrial plant of Japan is idle, with unemployment and impoverishment of her people, almost certainly Japan will fall under Communist control and this very great potential will be turned against us, thereby requiring a very great increase in our own effort if the present equation of power between the free world and the captive world is to be maintained.

I trust, therefore, that the policy above indicated vis-a-vis Japan has your concurrence.

Sincerely yours,

John Foster Dulles

SECRET

With respect to the manner of negotiations, I suggested, and Mr. Watanabe agreed, that it would probably be necessary for the Japanese Government to come forward with an initial proposal since the bondholders' position would naturally be that they desired a payment of interest and principal in full. Mr. Watanabe pointed out that the sterling indebtedness was much larger than their dollar indebtedness on foreign currency bonds and that in general it would probably be necessary for the same kind of settlement to be made with both groups. He stated that he thought he would be expected to attend the peace treaty conference in San Francisco and that he was thinking of returning to Japan immediately thereafter, primarily to discuss this problem. He would then come back to the U.S. with a Japanese proposal, which he would discuss with the Department before taking it up with the bondholders. He had not reached any conclusion as to how it should be taken up with the British, but was considering discussions first with the American bondholders, and assumed that the British Council would be informed by the American Council of the discussions.

FE:NA:NHemmendinger:lb
7/19/51

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Dulles

DATE: July 13, 1951

FROM : NA - Mr. Hemmendinger

SUBJECT: Paragraph 19(c) of draft peace treaty

Tokyo's telegram No. 111, July 13, points out that the reciprocal waiver of Japanese wartime claims against Germany and German wartime claims against Japan provided for in Article 19(c) could be construed to mean that German assets in Japan arising in the war period should be excepted from the program for liquidation of German assets in Japan, and that rights of the ICRC under Article 16 to Japanese wartime assets in Germany would be similarly prejudiced. This result was certainly not intended by the UK, which proposed paragraph 19(c), since the UK is obviously interested in maximizing proceeds from both German assets in Japan and Japanese assets in Germany. Moreover, the exception, even if intended, would be extremely difficult to administer.

For purposes of clarification it is therefore proposed that the following sentence be added to paragraph 19(c):

"Such waivers shall not ~~affect~~ prejudice actions taken in accordance with Article 16 and Article 20 of this treaty."

The attached telegram to USPOLAD, Tokyo has been drafted accordingly.

Attachment:

To USPOLAD, Tokyo.- In reply to 111 July 13 fr. Sebald

SGK
FE:NA:SGKallis:plh

SECRET

1. The blank in the covering memorandum as to the proposed place of peace conference can, we hope, be filled in by the end of this week or the first of next week, and the Ambassador will be notified accordingly.

2. There are still a few textual changes under consideration, chiefly of style and clarification and none of great substance, which would be dealt with in the proposed July 20 draft. The language in Article 16 with reference to shares of the BIS may be altered to meet the views of the BIS.

3. One or both Embassies of the U.S. and U.K. at the capital of the Government in question will have copies of the July 3 draft treaty available for the use of the Foreign Office if it desires to avail this facility to avoid delay, or expense of cable.

4. The present text largely takes account of the suggestions and observations heretofore submitted by the Government and, while the present draft does not fully meet the views of any Government, including the U.S. and U.K., it is believed to be generally acceptable, and the disagreements not sufficiently important to delay united and prompt action to secure a Japanese peace.

5. China will not be invited to sign the multilateral treaty. It is understood that a statement of position of the U.S. and U.K. in this respect and regarding Formosa has

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2. There are still a few textual changes under consideration, chiefly of style and clarification and none of great substance, which would be dealt with in the proposed July 20 draft. The language in Article 16 with reference to shares of the BIS may be altered to meet the views of the BIS.

3. One or both Embassies of the U.S. and U.K. at the capital of the Government in question will have copies of the July 3 draft treaty available for the use of the Foreign Office if it desires to avail this facility to avoid delay, or expense of cable.

4. The present text largely takes account of the suggestions and observations heretofore submitted by the Government and, while the present draft does not fully meet the views of any Government, including the U.S. and U.K., it is believed to be generally acceptable, and the disagreements not sufficiently important to delay united and prompt action to secure a Japanese peace.

5. China will not be invited to sign the multilateral treaty. It is understood that a statement of position of the U.S and U.K. in this respect and regarding Formosa has been communicated to the Government through the U.K.

6. A copy of this text will be given the U.S.S.R. with renewed invitation to participate.

7. Emphasize secrecy.

(Original) rm:as/mb
July 3, 1951

CHINESE PARTICIPATION AND FORMOSA

The Governments principally concerned with the Peace Treaty with Japan are not agreed among themselves as to what persons, if any, would possess the lawful and practical authority to commit the whole Chinese nation to permanent engagements. However, that fact should not be allowed to delay the Japanese Peace settlement, the early conclusion of which is generally agreed to be important.

2. It is accordingly proposed to proceed without any Chinese co-signature to the presently contemplated multilateral Treaty of peace. The interest of the Chinese people would be safeguarded by provisions in the multilateral treaty designed to assure that major benefits will enure to China even though there is no signature or ratification of that treaty on behalf of China. Thus the draft now under consideration contemplates that when the treaty comes into force all Japanese special rights and interests in China would automatically be renounced and China would have the right to deal for its own account with Japanese property.

3. It is understood that the contemplated procedure will not imply any alteration in the various positions concerning China held by the various Allied governments which will sign the multilateral treaty and that, under international law, Japan's future attitude toward China must necessarily be for determination by Japan itself in the exercise of the sovereign and independent status contemplated by the treaty. The treaty has been framed so as not to prejudice that important principle.

4. By the contemplated multilateral treaty, Japan would renounce its sovereignty over Formosa and the Pescadores. The treaty would not try to pre-judge the future of these islands, which is still to be considered.

used. Ready, in cases of Indonesia, Burma.

Amendments to July 3 Draft

Drafting and editorial changes

(See alterations in attached copy)

Essentially Drafting Changes but with Some Change of Meaning

Article 2 (f) -- France proposes substitution of "Japan renounces all right, title and claim to islands of the South China Sea," or words to that effect.

Mr. Fequant of the French Embassy states that the purpose of this change has already been largely defeated by mention of Spratly and the Paracels in the July 3 draft. The change would seem to have little advantage in any event. The substitute language is awkward and inprecise.

Article 3 -- See attached memorandum from Mr. Boggs, Department geographer.

Article 4 -- The Japanese Government states as follows in its Observations of July 2:

"(1) The first half of (a) is understood to mean:

> The disposition of property of Japan and its nationals in the areas referred to in Articles 2 and 3, and their claims, including debts against the authorities presently administering the areas referred to above and the residents (including juridical persons) thereof, and the disposition of claims, including debts, of such authorities and residents against Japan and its nationals, shall be the subject of special arrangemen ts between Japan and such authorities.

It seems to us the execution of this Article will prove impossible in practice. (What has happened in Korea shince the war's end serves to illustrate our point). Accordingly, we still believe that our formula submitted before (Property succession __ positive or negiative __ terminates in the respective areas concerned) is the sole practical formula. In case the provision as proposed were to be retained, we would need in its execution absolute diplomatic support from the American government, without which it would be impossible to achieve any concrete results.

"(2) It will be necessary to specify that "claims" mentioned herein do not include war reparations.

"(3) As to the restitution of Allied property in these areas (Second half of Article 4), we should like to have it clearly stipulated that restitution is to be made by the authorities presently administering the areas."

It is believed that the Japanese rewording of the first sentence of paragraph (a) avoids two faults in the present wording: (1) the first part of the sentence, particularly the phrase "in or against the authorities presently administering the areas", is grammatically bad and unclear, and (2) the second part of the sentence seems to speak of the property and claims of "such authorities and residents against Japan and its nationals" though obviously only claims it is hard to understand how property could be "against Japan or its nationals. The Japanese rewording corrects the first part of the sentence and makes clear in the second that only the claims of such authorities are to be the subject of special arrangements. It would be inequitable for the property in Japan of a resident of Formosa to be included within the scope of the special arrangements.

The Japanese Government's position that it is necessary to specify that the claims mentioned do not include reparations seems unwarranted. There would seem to be no possibility of the former Japanese colonies of Korea, Formosa and Sakhalin, which constituted integral parts of Japan and the Japanese war complex, being able legally to advance reparations claims against Japan. It would appear inadvisable to lend any support to such idea by specifically excepting reparations claims.

The third Japanese point, that it should be made clear that the restitution called for is to be made by the present administering authorities (and Japan has no responsibility), raises the question whether the sentence should not in fact be deleted entirely. The obligation therein imposed is intended to be on the administering authorities but these (certainly in the case of Korea and Formosa and almost certainly in the case of Sakhalin and the Kuriles) will not be parties to the treaty and will not be bound by anything it says.

Article 8 -- It appears that two treaties were signed at Lausanne on July 24, 1923, the Treaty of Peace with Turkey and the Treaty Relating to the Regime of the Straits. The British, in including reference to the Treaty of Lausanne, had reference to Article 16 of the Treaty with Turkey. They will probably agree to the revision indicated in the attached draft clearly specifying this treaty, without wanting also to eliminate Japan from the second treaty, since that was superseded by Montreux in 1936.

Article 12 (b)(ii) -- In order to distinguish more clearly between the treatment required in the importing process, where m-f-n is called for under paragraph (b)(i), and the treatment of goods after they are imported (national treatment), it has been recommended by the Commercial Policy Division that "imported goods" be substituted for "imports" at the beginning of para (b)(ii).

Article 15 (a) -- The last part of the last sentence, as proposed to Tokyo and London, is to read:

"...compensation will be made in accordance with the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July ___."

Article 16 -- The phrase "or the equivalent of such assets" has been subject to several interpretations in the Department. Some have understood it to mean that Japan is permitted to substitute for particular assets in a neutral country which it wishes to retain "equivalent" assets which would be transferred instead. Others believe that it means that Japan must make up from other sources the difference between the gross amount of its assets in neutral countries and the amount actually collected by the Red Cross. I understand the latter is intended but even this interpretation might be in several variations under the present language.

The Japanese Government states:

(Comments checking proposed language on reparations with Mr. Fahs and ...)

Article 17 (a) -- The Japanese Government states:

"All records and documents of the Japanese Prize Courts were turned over the Occupation authorites, who then reviewed the Japanese court decisions. Of the vessels that had been confiscated by Japan through due processes of law, most of those which could be returned, were restored to their original conditions and returned to their original owners on orders from the Occupation authorities.

"Accordingly, it would seem sufficient for the peace treaty only to stipulate that with respect to compensation for the vessels and cargoes, which are due to be returned, but of which restitution is impossible, the provisions of Article 15 shall apply."

The second sentence of Article 17 (a) reads: "In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned." Article 15 requires the return of all Allied property which was within Japan between Pearl Harbor and surrender. In the case of prizes the seized ship or cargo would, therefore, have to be returned whatever the rightness of wrongness of the prize court decision. The only purpose of the above quoted sentence, therefore, would seem to be to invoke the compensation provisions of Article 15 (the last sentence of paragraph (a) of Article 15) should the prize vessel or cargo have been damaged or lost. This sentence, however, has been revised to provide that compensation shall be provided only for lost or damaged property which was within Japan on December 7, 1941. No prizes could have been teken by this date, so that the last sentence of paragraph (a) of Article 17 would no longer seem to have any point.

It would seem in any event that compensation should not be provided for prizes, whether taken legally or illegally, which were lost or damaged, any more than for property looted by Japan which was lost or damaged. No compensation for lost or damaged looted property is now made under Article 15. If such compensation were paid it would be reparations, which we have opposed except under the limited circumstances of Article 14 (a) 1.

Probably all of Article 17 (a) could be deleted without loss. The British may want to keep it, however, so that if a prize court decision was not in accordance with international law the original title of the owner can be restored by reversing the decision. Otherwise even though the owner may have the ship back by occupation order, it would have been recovered as reparations, with the original title lost. It is believed that the U.S. should propose its deletion however.

Addendum to Memorandum of "Amendments to July 3 Treaty Draft"

SCAP has been advised that the following suggested addition at the end of Article 19 (b) will be included in the July 20 draft: "...but does not include claims recognized in the laws of any Allied Power enacted since September 2, 1945."

FE:NA:RAFearey:re

To: Ambassador Dulles

Subject: Article 13 (Commercial Relations)

Both the May 3 draft and the proposed U.S. revision contain detailed provisions concerning the types of treatment which Japan will be bound to accord to Allied Powers and their nationals during the 5 year period following the Treaty, relating to customs duties and other import and export regulations, shipping, taxation, the making and performance of contracts, property rights, etc. Although Japan is bound to accord rights with respect to these matters only if the Allied Power reciprocates, this is a one-sided reciprocity, since the Allied Power may decide to accord favorable treatment to Japan in an area where it stands to gain much and give little, while deciding not to grant favorable treatment in those areas in which it stands to give much and gain little.

The same problem arose recently in the discussions of the Intergovernmental Study Group on Germany. There, the U.K. and French desired a similarly elaborate provision on commercial relations, which the United States resisted. Apart from the fact that the U.S. delegation believed that the function of a peace treaty was to settle questions which arose from the war and not to regulate peace-time relationships which had nothing to do with the war (here, precedent was against us, viz., Italian Treaty, article 82), the U.S. believed that it was best to minimize the scope of such "reciprocal" obligations on the part of the defeated enemy, as well as the time during which those obligations would persist. The U.K. and French refused to accept a general and reciprocal obligation on the part of Germany to accord most favored nation and national treatment in commercial relations, shipping, navigation, and establishment matters. However, they finally accepted a solution whereby Germany would give unilateral assurances that it would, generally, accord such treatment. The United States believed that it was better to have a unilateral general commitment than a very detailed "reciprocal" commitment.

It is suggested that you may wish to consider the replacement of article 13 by a short unilateral undertaking by Japan to accord general MFN and national treatment during the period of 2 years pending the conclusion of commercial

treaties between Japan and individual Allied Powers. Since the undertaking would be unilateral, it is believed that the period should be shortened from the present 5 years to something like 2 years.

One further point. Both the May 3 draft and the U.S. proposed revision contain a unilateral obligation on the part of Japan to compensate for private property taken for public purposes. This, of course, is a principle of international law by which Japan is already bound. To insert it in the treaty for the special observance of Japan tends to derogate from its authority as a general rule of law binding all nations, not only defeated enemies. As a consequence, I would urge that it be eliminated, regardless whether the general proposition put forth by this paper is adopted. The United States succeeded in dissuading the U.K. and French on this point during the recent discussions on Germany.

There is attached a new draft article 13 consistent with this paper.

Dmetzger

ARTICLE 13

(b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of two (2) years from the coming into force of the present Treaty, pursue a general policy of non-discrimination towards the Allied Powers, and their nationals, and will in general accord national and most-favoured nation treatment on matters affecting such nationals and their property, rights and interests in the field of establishment and navigation.

MEMORANDUM

114

June 14, 1951

To: Mr. Allison

From: S. Metzger

Subject:

At yesterday's meeting Mr. Fitzmaurice raised the question whether agreements concluded by SCAP on behalf of Japan with foreign countries would necessarily cease to have effect upon the coming into force of the Peace Treaty.

About five weeks ago SCAP raised the problem with Washington concerning commercial agreements made by SCAP. This telegram did not, as I recall, distinguish between those agreements which contain a specific clause stating that they will cease to have an operative effect upon the coming into force of a peace treaty, and those which did not contain such a clause. The Department replied about three weeks ago that SCAP could authorize the Japanese Government to negotiate for extension of all such agreements, which would be legally operative now as well as after the coming into force of the treaty. As I recall it, both SCAP's query and our reply dealt only with commercial and trade agreements. It is suggested that you might bring up the matter while in Tokyo so that appropriate amendments to existing agreements, whose terminal date goes beyond the likely date for coming into force of the treaty, may be appropriately extended.

SDMetzger:lpr

Mrs. Allison (Mr. Dulles' OFFICE
Representing conversation
of Mrs Dulles, Mrs.
Reinhold + NA.
PAT

CONFIDENTIAL

JAPANESE PARTICIPATION IN BIS

PROBLEM:

To determine the U.S. position (for purposes of the Japanese Peace Treaty discussions) respecting treatment of: (a) Japanese participation in the control and share ownership of the BIS; (b) the Japanese claim arising out of her participation in the Annuity Trust Account in the BIS set up to facilitate the transfer of World War I German reparations.

~~REMARKS~~ RECOMMENDATION:

(a) The disposition of the Japanese participation in the control and ownership of BIS SHOULD be worked out on a voluntary basis and should not be embodied in the Japanese Peace Treaty. However, the United States should be willing to associate herself with the U.K. and other interested governments in fequesting Japan to relinquish her participation in the control of the BIS (possibly this may require amendment of the Hague Convention of 1930). If, following such relinquishment of participation in control the Japanese Government desires the Japanese banks holding shares in the BIS to dispose of such shares, the U.S. should assist, if necessary, in arrangements for their disposition on an equitable basis.

(b) The Japanese claim arising out of her participation in the Annuity Trust Account of the BIS should be extinguished (without compansation) by an appropriate provision in the Japanese Peace Treaty.

DISCUSSION:

There does not appear to be any justification for imposing upon Japan in the Peace Treaty any obligation in connection with her participation in the control and ownership of the BIS. Although this institution grew out of the attempt in the Young Plan to settle German reparations for World War I, Japan, like other major participants, subscribed nearly $1 million to the capital of the Bank which was established as a permanent international financial institution. The Japanese interest in the capital of the Bank is not included in any category of Japanese assets to be taken over by the Allies as a result of World War II, and the elimination of the Japanese participation in the control of BIS would not appear to serve any security objective. However, the resumption of Japanese participation in the management of the Bank would not appear to serve any useful purpose and perhaps would run counter to U.S. objectives in respect to the role of the International Monetary Fund.

Since the end of hostilities, the BIS has taken on the aspect of an exclusively European institution, its major operating role being a clearing house for intra-European trade and payments under the OEEC. The participation of an important non-European country would give to the Bank the aspect of a global institution.

Since, under the charter of the BIS, participation in management is dissassociated from share ownership, it would be possible for the consortium of Japanese banks who subscribed to the BIS shares to continue to hold such shares even after the relinquishment of Japan's participation in the control of the institution. However, in view of the Japanese foreign exchange position, the Japanese Government may desire to realize the value of these shares. Furthermore, since the transfer of shares requires the consent of the directors of the BIS, arrangements for the liquidation of the Japanese interest could best be accomplished in connection with the general peace settlement. The United States should be willing to assist Japan in arranging for such liquidation. Since the asset value of these shares has approximately doubled since the Bank was established, a price considerably in excess of the original cost of the shares to Japan would appear equitable.

The Japanese participation in the Annuity Trust Account of the BIS is, in reality, a claim against Germany and solely related to the World War I reparations settlement. The likely liquidation value of this claim is negligible, particularly since it is denominated in reichsmarks and, therefore, possibly subject to the 90% write-down of such claims under the German Currency Reform Law. In any case, it would appear logical that Japan should not be permitted to participate in any limited payments which Germany is able to make in connection with the German claims settlements now being arranged by the Allied Powers.

June 1, 1951

Mr. W. D. Gacho,
Vice-President, American
Trading Company, Inc.,
96 Wall Street,
New York 5, New York.

Dear Sir:

Apparently you received a somewhat false impression of my talk the other day as I did not mean to imply that the Japanese draft legislation for recompense of foreign property was in final shape as yet. We have had preliminary drafts from the Japanese of legislations which they propose to pass providing for compensation for loss or damage suffered by allied property in Japan as the result of the war, but such drafts are not yet complete and are not in a shape which could usefully be made available at this time. As these matters take more helpful form an effort will be made to make them available to responsible American trade interests for their suggestions.

I am leaving for Japan tomorrow via London and upon my return around July 1, I will be glad to get in touch with you again and see if there is not by that time something available which I can show you.

Very truly yours,

John M. Allison

S:JMA:mb

AMERICAN TRADING COMPANY, INC.

96 WALL STREET

CABLE ADDRESS:
"AMTRACO"

NEW YORK 5, N.Y. May 29th, 1951.

Mr. John M. Allison, Director,
Office of Northeast-Asian Affairs,
Department of State,
Washington, D.C.

Dear Sir:-

We would appreciate receiving copy of drafts of the Japanese proposals for the restitution of foreign properties, which you mentioned in talk at the American Institute of Pacific Relations luncheon today at the Bankers Club.

Yours very truly,

AMERICAN TRADING COMPANY, INC.,

W. D. CACHO,
Vice-President.

WDC:RL

Mr Dulles

SECRET

MEMORANDUM FOR MR. DULLES

Attorney General's Proposal on Article 15

1. It has been generally agreed that reparations should be taken only from Japanese external assets, not from Japanese internal assets. The question of what should be considered an external asset as distinguished from an internal asset is a difficult one, especially with respect to obligations owed by persons within Japan. Further complications are introduced where such obligations are evidenced by bearer instruments outside of Japan.

Article 15 of the draft treaty states that each Allied Power shall have the right to seize and liquidate property which at a certain time was "subject to its jurisdiction". This language leaves open the question of what property is subject to an Allied Power's jurisdiction. The Attorney General feels that the treaty should be more specific as to what obligations should be considered within the jurisdiction of an Allied Power.

2. It is the view of both the Attorney General and the Department of State that obligations owed by Japanese in Japan to other Japanese in Japan should be regarded as internal assets and should not be subject to seizure even though paper evidence of the obligation may have been seized by an Allied Power. If, however, those obligations are owed to enterprises organized under the laws of an Allied Power or branches of Japanese enterprises doing business in the territory of an Allied Power, the property should be regarded as part of an economic complex doing business in that territory and the obligations should be regarded as seizable external assets. The Attorney General proposes an addition to the present draft of Article 15 which would specifically lay down this policy.

3. The present text of Article 15 may be broad enough to allow the Attorney General to pursue the suggested policy. However, the text does not ensure that other Allied Powers will follow the same interpretation.

Moreover, the Attorney General feels that present United States legislation requires him to realize on whatever property he is legally able to. Thus, without any indications to the contrary in the treaty, under the present text he would be required to attempt to enforce some obligations which should rightfully be regarded as Japanese internal assets. Conversely he feels that he will have a great deal of difficulty and get involved in complicated litigation under the present language in collecting on obligations which he considers Japanese external assets. The legal uncertainty and ensuing litigation would hamper the revival of Japanese foreign trade, especially since different solutions of the problems might be reached in different allied countries.

It seems logical that the Treaty should remove this type of legal uncertainty; the addition proposed by the Attorney General is a careful formulation of the Department's policy adopted for Germany and while it would not solve all the problems it would narrow the area of legal uncertainty to a considerable degree.

4. There

4. There are the following considerations adverse to inserting the addition in the draft treaty at this time:

(a) the addition may not be acceptable to the British;

(b) the addition may expose the Japanese to inequitable claims and it should therefore be discussed first with the Japanese. This objection is not clear to me;

(c) the addition makes the Treaty somewhat more complex.

5. Possible alternative solutions are:

(a) maintain the present draft of Article 15 and ignore the suggested addition;

(b) maintain the present draft but raise the question of the addition with the British and with the Japanese;

(c) accept the Attorney General's addition as the United States position and attempt to get the British to agree;

(d) maintain the present draft but suggest that the addition along with other more detailed problems be covered in a separate Protocol.

6. By way of a compromise with the Attorney General's position certain offices in the Department propose that we should not include the addition, but modify the present text of Article 15, paragraph 1(a) to read as follows:

"However, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all rights, ~~property~~ titles, and interests of Japan and of Japanese nationals (including juridical persons) in property which at any time between December 7, 1941, and the coming into force of the present Treaty ~~were~~ was subject to its jurisdiction, except:"

The Attorney General does not consider this modification satisfactory, and I understand that it would not be readily accepted by the British.

It is the view of the proponents of this formula that it would not enable the vesting Allied Powers to rely specifically on the Treaty in pressing obligations against Japan arising from evidence by documents seized outside Japan, but would give them a reasonably good case in the situations in which the Attorney General is justly concerned, namely where the obligations belong to United States corporations or branches of Japanese corporations in the United States. The Attorney General does not agree.

I have

I have some question whether the suggested formula would accomplish the purpose of the addition proposed by the Attorney General.

7. It would be my inclination to proceed on the basis of the present text and discuss with the British the desirability of a protocol which would include the Attorney General's addition and settle other problems which may arise in this complex field. If this recommendation is accepted an expert in this field should go to London and from there directly to Japan so that a protocol could be drafted with a view to becoming effective simultaneously with the Treaty. Simultaneously an intensive effort should be made in the Department to determine the effect of the Attorney General's addition outside of the United States and particularly in China.

Eric Stein

May 31, 1951

ARTICLE 15

Article 15 of Chapter V

(a) The Allied Powers recognize that Japan lacks the capacity to make payments in bullion, money, property or services which would enable Japan to maintain a viable economy, to meet its obligations for relief and economic assistance furnished since September 2, 1945, in furtherance of the objectives of the occupation, and also to make adequate reparation to the Allied Powers for war damage. However, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of Japan and of Japanese nationals (including juridical persons) which at any time between December 7, 1941, and the coming into force of the present Treaty were subject to its jurisdiction, except:

(i) property of Japanese nationals who during the war resided with permission of the Government concerned in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected during that p period to measures not generally applied by the Government of the territory where the property was situated to the property of Japanese nationals resident in such territory; provided, however, that this provision shall not require more favorable treatment of Japanese property than is accorded by the Allied Power concerned to nationals occupied by Japan or Germany during the war;

(ii) all real property, furniture and fixtures owned by the Government of Japan and used for diplomatic or consular purposes, and all personal furniture and furnishings and other private property not of an investment nature which was normally necessary for the carrying out of diplomatic and consular functions, owned by Japanese diplomatic and consular personnel;

(iii) property belonging to religious bodies or private charitable institutions and used exclusively for religious or charitable purposes;

(iv) property rights arising out of the resumption of trade and financial relations between the country concerned and Japan or acquired after September 2, 1945, pursuant to authorization by the country concerned before the coming into force of the present Treaty.

Property referred to in subparagraphs (i) to (iv) shall be returned subject to reasonable expenses for its preservation. If any such property has been liquidated the proceeds shall be returned instead.

(b) The right to seize, retain, liquidate or otherwise dispose of Japanese property referred to in paragraph (a) above shall be exercised in accordance with the laws of the Allied Power concerned, and the Japanese owner shall have only such rights as may be given him by those laws.

(c) The Allied Powers agree to deal with Japanese trademarks and literary and artistic property rights on a basis as favorable to Japan as circumstances ruling in each country will permit.

(Note:

TO: S - Mr. Allison

FROM: NA - Mr. Hemmendinger

SUBJECT:

The following comments are made upon open questions of the treaty which we were asked to make recommendations.

1. Section 14. There is a new draft of that part of Section 14 referring to Japanese property in Allied countries attached. This embodies a number of changes tentatively agreed upon with the British and some changes resulting from discussions with the OAP. It has not been concurred in by OAP and I just have an OAP draft which is considerably different. You will observe that this latest draft omits the controversial subsection 12. We have tentatively concluded that it is impossible to draft this exception in a way which will not unduly limit Japan's freedom of action, and we believe this would be an extremely difficult section to get general acceptance on. The change in the second sentence to read "rights and interests in property outside of Japan" should put Japan in position to dispute claims which involvedfollowing property into Japan.

Examination of SCAP reports on Japanese external assets reveals no declaration by the Japanese Government, financial institutions, copporations or individuals of property used exclusively for cultural or educational purposes in the European countries at way with Japan. Records are not available with respect to property in other countries at war with Japan. We have omitted the provision on practical grounds that any individual countries in which such property is located may well be willing not to exercise the right and that if they insist upon asserting it that it will probably make

make difficulty in accepting the treaty provision. Further checks should be made, however, before a definitive agreement is made because of the possibility that failure to include cultural and educational property in the accepted category may be contrary to the principles which the Department has asserted in other areas.

2. British Article 28. We still think it is preferable to omit from the treaty any provision that Japanese assets in the ex-enemy countries be used as reparations. ~~The~~ Any attempt to implement such a provision would be vexatious with respect to all the former ex-enemy countries and would be meaningless with respect to the iron curtain countries. We have enough controveries in those countries now without inviting any from which we cannot profit. It is highly probable that Italian counter-claims which we would want to permit Italy to assert would completely wipe out the Japanese assets in Italy. With respect to Germany, we have no basis on which to judge what part of the Japanese assets most recently estimated at $3,555,000 may be in the Russian zone. Precedent exists for the return of former enemy property in Germany to its owners. Such provision was included in the treaties with Italy, Hungary, Bulgaria, Rumania and Finland. It would be possible to provide for seizure of assets in Germany and not in the other countires, and if hard pressed, we could agree to such a provision by the difficulties of administration and of division to justify the British to receive and in any case they will have to come up with a better scheme than delivery to the four powers as a bone of contention.

3. As you will remember we advised the British delegation that we would be willing to insert an article in our draft on the end of the occupation, but wanted to check the language of Article 22 of the British draft. We do not yet have comments from the competent officers in the Department of the Army. It appears to us that paragraphs 2 and 3 require modification, first because they may not adequately have the possibility of continued use by agreement without compensation, and second, because the obligation to return property may be intensely broad. There may be some property such as technilogical information which has been seized by the occupation which we would not want to return or pay compensation. The following is a tentative revision and compression of paragraphs 2 and 3. "All Japanese property for which compensation has not already been paid and which was supplied for the use of the occupation forces and which remains in the possession of the forces at the coming into force of the present treaty shall be returned to the Japanese Government within the same period of 90 days or other arrangements made by mutual agreement."

4. German assets in Japan. We think it is on the whole preferable that this problem be treated in the treaty and the latest British revision of British Article 29 appears acceptable with addition of the following: "And pending the final ~~dispute~~ disposition of such assets to be responsible for the administration thereof." It may require elaboration but this can be done by exchanges of letters or memoranda with the Japanese outside the treaty.

5. Property Settlement in Connection with Cession of Territories. The only provision contained in the U.S. draft is Article 14 which treats properties in the ceded territory along with property in the countries at war with Japan. We have left it so in the latest revision, because there are no specific provisions which would enable the seizing powers to follow theassets into Japan. There remain, however, other questions which should be resolved either in the treaty or in separate agreements. For instance, ceded territories are probably entitled to some tangible properties in Japan such as records and cultural monuments which were publicly held. The British draft provides in Article 8 a renunciation on behalf of Japan and Japanese nationals of all rights, titles, and interests in and all claims in respect of any property which is or was situated in any of the ceded territories. We have not had adequate opportunity to study this question. Tentatively we think that property in ceded areas should be covered by a separate article, not in Article 14 and that the treaty provision should be sufficiently general to allow a specific agreement between the country concerned and Japan appropriate to the particular circumstances.

6. We are annexing papers on Article 14 of the UK draft dealing with the Congo Basin treaty and Article 17 of the UK draft dealing with the Bank for International Settlement.

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 31, 1951

FROM : NA - Mr. Johnson

SUBJECT: Transfer of Physical Custody Japanese Precious Metal and Diamond Stockpiles from Occupation to Japanese Government.

SCAP has proposed that physical custody of wartime Japanese-owned precious metal and diamond stockpiles be transferred from the Occupation to the Japanese Government in order to relieve for other assignments military personnel now assigned to guarding and warehousing property. It is estimated that action will require 90 days and SCAP plans to initiate steps towards transfer shortly after June 1. The Japanese Government will be directed to hold these stockpiles separate and apart from other assets in a blocked account and comprehensive periodic reports will be required from the Japanese Government to provide basis for continued staff supervision and such accounting controls as are necessary.

This is an administrative matter entirely within SCAP authority and was submitted to Washington only because SCAP believed political reactions might be explored in light of stated views on reparations expressed by several FEC member nations.

From discussions with Army it has developed that it will probably be impossible to accomplish transfer entirely without publicity. Therefore, NA has concurred with an Army telegram to SCAP recommending transfer to Japanese physical possession be accomplished with minimum publicity but that if SCAP believes press release necessary it will be specifically indicated that stocks remain under SCAP control and that no change in status is involved. The telegram emphasizes that it is imperative that the above points be stressed to the Japanese and that it be made clear that any action such as inventory by the Japanese on the assumption of any post-treaty use should be deferred or carried out with extreme discretion.

I suggest, in order to minimize the possibility of any adverse reactions, that, in your discretion, you or Mr. Dulles take advantage of any appropriate opportunity while you are in London to mention casually and confidentially to the British the contemplated action in this regard.

FE:NA:UAJohnson/pmh

SECRET

OUTGOING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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ORIGIN:FE
INFO
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CHI:POLAD,
Cia
ARMY Tokyo.
NAVY A-961, May 25, 1951
AIR

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OAP Mr. Toshio Inoue, Director of the Bank of Japan and his assistant Mr. Matari have discussed with officers of the Department of State and the Department of the Army the problem of the possible attachment of the funds of the Bank of Japan if deposited in the United States. Mr. Inoue stated that principal object of this visit to the United States was to seek to resolve this question.

Mr. Inoue enquired whether there was an objection to the Bank of Japan's employing New York counsel to advise them on this matter. He was informed not only that there was no objection to such action, but that it would facilitate discussions with the Department of State which might be appropriate.

In an informal discussion of the legal problems involved, Mr. Inoue was informed that if funds were held in the United States by the Japanese Government in its own name or by the Foreign Exchange Control Board they would clearly be in position to plead sovereign immunity in case of attachment. If funds were held by the Bank of Japan for the Japanese Government, a plea of sovereign immunity would probably be sustained but subject to a scrutiny whether the funds were in fact segregated from other funds and title thereto held by the Japanese Government. If funds were held by the Bank of Japan in its own name, the plea of sovereign immunity would presumably not be sustained. While no definitive opinion was expressed, it was indicated that the Bank of Japan by itself would probably not be able to plead sovereign immunity. This would clearly be true if it were admitted to do business in New York as an agency, since such action would involve an express consent to be sued.

Mr. Inoue was also informed that in the event of suits based upon obligations of the Japanese Government, as distinguished from the Bank of Japan, such as claims based upon dollar bonds, the Bank of Japan would probably be able to defend the suits on the alternative grounds of sovereign immunity and if that ground were rejected, that the claim was against the Japanese Government and not the Bank of Japan

It was pointed out to Mr. Inoue that before a decision was made how to hold funds in the United States, examination would have to be given not only

to possible

Army

to possible claims of U.S. nationals but also to claims arising elsewhere in the world on which suits could be brought in the United States. As an example, the possibility of suits by the Thai Government based upon wartime yen deposits in Tokyo was suggested. It was also pointed out that it might not be desirable to await the settlement of all possible claims because even an agreement with most of the U.S. bondholders would not be binding upon bondholders who did not see fit to enter into the agreement and thus claims could remain even for more time to come.

Mr. Inoue stated that he would proceed to retain counsel and would advise Governor Ichimada that it would be imprudent to establish accounts until the problem of claims had been fully investigated.

Mr. Inoue has conferred with officers of the SCAP, who have given him general information with respect to claims against the Bank of Japan filed with that office and have undertaken to supply photostatic copies.

You may wish to bring the foregoing to the attention of interested officers of FEC, CA, SCAP.

ACHESON

FE:NA:Allen:endinger:Rb
5/18/51

Cleared with -

S/S - [redacted] Army - Mr. Foster

Army

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FORM DS-322

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Dept Control 7687

May 15 '51

USPOLAD, TOKYO 1641

TOPAD

FROM ALLISON

Dulles suggests you tell Yoshida (UNTEL 1996, May 18) that MAN treaty draft has already been subjected to certain changes as result of exchange of views with other members FEC and will undoubtedly be further altered upon receipt of additional comments. It is hoped that shortly after Dulles forthcoming visit to London it will be possible to produce more definitive draft and consideration will be given to making this available to public. It is believed no useful purpose WLD be served by having Yoshida show present draft to members of the opposition. Your statement to Yoshida summarized first sentence, second para MEMTEL correct.

SEMAllison:mb
5/18/51

J.M.Allison

FE

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STANDARD FORM NO. 64

RAF

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA – Mr. Hemmendinger DATE: May 18, 1951

FROM : OFD – Mr. Young JPY

SUBJECT: Commercial Policy Article in Japanese Treaty

The following is a provision which OFD suggests be included in Article 13 of the Japanese Treaty. It would be a new (d), the present (d) becoming (e).

> (d) Pending the assumption of obligations under appropriate international agreements, Japan will facilitate the establishment of a multilateral system of international trade and payments, maintaining only such restrictions on her international transactions as are consistent with such agreements.

This is a statement of adherence to fundamental principles which underlie United States foreign economic policy and to which the United Kingdom and other countries are now formally committed, although they do not always live up to them. It means that pending assumption by Japan of obligations under the International Monetary Fund and GATT Japan would be bound by certain of the principles of these agreements. Japan would thus be subscribing to the principle of non-discrimination and competitive international trade as opposed to the system of state determination and control of the details of trade, state operations, extensive restrictions, bilateral deals and preferences and economic nationalism generally.

This would probably do no harm, but we think (a) it is too loosely drafted (b) reference specifically to GATT and the IMF, which is what is intended, would be incorporation by reference of extensive and complex agreements. (c) it is partly covered by present draft (d) undesirable appear to impose this commercial policy under duress – Japan has indicated fully intent to adhere to GATT & IMF.

UK

OFD:JPYoung:mre

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 18, 1951

FROM : NA - Mr. Fearey

SUBJECT: Industrial Property

I believe the attached second memorandum from Mr. Rusch satisfactorily answers the questions Mr. Dulles raised regarding the proposed provision on patents and trade marks.

If we plan to send any further U.S. revisions to the British the proposed draft at the beginning of Mr. Rusch's second memorandum might be included. You will recall that it is stated in the note to Article 16 that the U.S. will prepare a draft on patents and trade marks.

You stated in connection with Mr. Rusch's first memorandum (also attached) that you were not yet clear on the status of copyrights. The position of the Department experts has for some time been that no treaty provision on literary and artistic property matters is necessary. The British had an annex on the matter but agreed (see note to Article 16) to prepare a briefer provision for inclusion in the treaty proper. In the concluding section of his first memorandum Mr. Rusch presents the U.S. arguments why no provision on literary and artistic property need be included anywhere in the treaty. What he says should enable us to determine, when we see the British draft, whether it serves any necessary purpose, and possibly to convince them that it does not.

FE:NA:RAFearey:re

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Robert A. Fearey DATE: May 18, 1951

FROM : BPT- William H. Rusch WHR

SUBJECT: Industrial Property Provision of Japanese Peace Treaty.

You have asked for further explanation of the following language as suggested in the paper I sent to you on May 9:

> "(b) Japan agrees to continue to accord to industrial property of nationals of Allied Powers the benefits afforded by Cabinet Orders 309 and 315, effective September 1, 1949; Cabinet Order 12, effective January 28, 1950; and Cabinet Orders 9 and 10, effective February 1, 1950."

The major benefits accorded by these Cabinet Orders may be summarized as follows:

1. Patents. Cabinet Orders 309 and 315 provide for the restoration of Allied patent rights which lapsed or were cancelled during the war; for the extension of their term for a period equivalent to the period from the effective date of war to date of restoration; and for the extension of the right of priority with respect to patent applications (without such extension patents could not be secured owing to loss of novelty of invention through patenting in other countries, use, or public disclosure during the war). Provisions were also made for continued use by independent inventors or their assignees of inventions patentable by Allied nationals because of the priority right extension; these provisions allow the negotiation of royalty-bearing contracts, permit appeals by either party to the Patent Office and subsequent appeals to the courts.

2. Trade-marks. Cabinet Orders 9 and 10 provide for the restoration of trade-marks cancelled during the war retroactively to dates of cancellation; provide that the act of cancellation shall in no way affect validity of the mark; provide that adverse use of the same or similar names prior to date of restoration shall not affect validity of the marks; provide for the disposal of goods belonging to others which bore the restored mark or an infringement thereof prior to date of restoration; extend duration of trade-mark rights for a period equivalent to that from effective date of war to date of restoration; provide that new trade-marks applied for by

Allied

SECRET

Allied nationals shall be treated as they would have been at the effective date of war; provide for extension of right of priority as in the case of patents; and provide that the Allied owner whose trade-mark is restored or who acquires a new mark pursuant to the above provisions may apply for cancellation of infringing marks.

3. Trade names. Cabinet Order No. 12 provides that Allied nationals having trade names generally known in Japan may apply to the courts to stop the use of conflicting names subsequently adopted by others and provide, to the extent appropriate, additional relief analogous to trade-marks.

In order to avail themselves of the benefits of the Orders, Allied nationals must take certain actions by certain dates. These dates are March 31, 1951 with respect to patents and trade-marks and January 28, 1951 with respect to trade names.

In other words, unless an Allied national takes some step--such as filing an application or commencing a court action--prior to these dates, he has no remedy under the Orders.

It is not correct, however, to assume that by the date of ratification of the Peace Treaty all of the benefits of the act will have been received by Allied nationals. The following are several examples:

1. An Allied national may file a patent application prior to March 31, 1951, taking advantage of the extension of right of priority afforded him under the Cabinet Orders. The process of issuing a patent, however, involves an indeterminate period of time. It is essential, therefore, that the applicant's right of priority be recognized immediately before issuance of the patent, which may be after ratification of the Peace Treaty.

2. The Allied national referred to in (1) may succeed in obtaining his patent by proof of priority over an independent inventor. In this event it might be necessary for the Allied owner of the patent to negotiate a patent agreement with the independent inventor or a firm which commenced use through such independent invention. If the Allied owner is dissatisfied with the arrangements, he has an appeal first to the Patent Office and second to the courts. It is, of course, desirable that these appeal provisions, which could be time-consuming, continue to be available after ratification of the Treaty.

3.

3. In order to secure cancellation of a trade-mark infringing on one which has been restored to him, an Allied national would have to bring an action for cancellation prior to March 31, 1951. The action, however, might take considerable time and, therefore, the owner might need to rely after the Peace Treaty on certain provisions of the Cabinet Orders which protect him against loss of rights arising from the wartime period of cancellation.

In view of the foregoing, it is my feeling that the language previously suggested is proper and that it would be undesirable to attempt to reword it in any way which might tend to limit it to actions fully accomplished prior to ratification of the Peace Treaty.

We have transmitted this proposed language to Tokyo to obtain the views of USPOLAD and ESS on its appropriateness, I would suggest that until these comments are received it would be desirable to proceed on the basis of the language presently suggested.

You have also asked my opinion whether it is necessary or desirable that this or any other special provision regarding industrial property be placed in the Peace Treaty. In my view the first paragraph of Article 16 would probably afford us some basis for protesting rescission of the rights granted to Allied nationals with respect to this type of property. Furthermore, it would seem rather unlikely that Japan would undertake to rescind any such rights. There is, nonetheless, a risk involved since Allied rights are based solely on these Cabinet Orders. I think that the question should be answered in terms of the degree of risk we are taking in drafting the Treaty on other problems of like character or order of importance. This is a question which I am not competent to judge because I am not familiar with the approach taken to other problems presented by the Treaty.

EDT:BPT:WHRusch:slb

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 11, 1951

FROM : NA - Mr. Fearey RAF

SUBJECT: Industrial Property

Rusch's underlying memorandum and proposed draft seem to cover the patent and trade mark problem very well. I have only one query and that is in regard to the second sentence of his draft insertion at the top of page 2. This sentence, requiring Japan to afford Allied nationals effective protection against unfair competition for the indefinite future, is inconsistent with the decision reached in the Department not to include vague, unenforceable stipulations regarding Japan's future conduct. All that is included on these lines is Japan's statement of intention in the Preamble to conform to internationally accepted fair trade practices. Even if the phrase "unfair competition" in Rusch's draft is qualified to refer only to the patent and trade mark field, as Rusch says he intended, it would seem inappropriate.

It should also be noted that Japan as a member of the International Convention for the Protection of Industrial Property signed at London in 1934 will be obliged to ensure fair practices in the industrial property field (see discussion under Article 28 in long draft treaty Black Book). Under the protocol accompanying the May 3 draft Japan will be required to resume its rights and obligations under this Convention. Rusch agreed when I pointed out the above that the matter might be adequately taken care of without his second sentence, but would of course still prefer the sentence in as a treaty commitment.

Rusch seems on solid ground in recommending that we not agree to include the Agreement on False Indications of Origin of 1934 in the list of conventions in the Protocol to which Japan must accede.

I have given a copy of Rusch's memo and this comment to Hemmendinger.

I'm not clear yet on status of "origin"

FE:NA:RAFearey:re

SECRET

U.S. Position with Respect to Industrial, Literary and Artistic Property

A. Industrial Property

1. Cabinet orders currently in effect in Japan provide satisfactorily for the restitution of Allied patent and trade-mark rights which may have been lost during the war and for the extension of their term for a period equivalent to the period from effective date of loss to date of restoration.

2. These cabinet orders were put into effect in Japan pursuant to SCAP directives issued in accordance with FEC Policy Decisions dated March 30, 1949 (Press Release 52) and July 28, 1949 (Press Release 56), to which representatives of the United States, United Kingdom and other FEC countries agreed. The Treaty should not include provisions conflicting with these arrangements or likely to cause confusion as to the status of the cabinet orders and implementing regulations issued thereunder.

3. The United Kingdom has suggested that the cabinet orders have not provided sufficient time for Allied nationals to take actions necessary to avail themselves of the benefits of the orders. The United States should take the position that sufficient time has been afforded. With respect to patents, the time allowed was originally from September 1, 1949 to September 1, 1950. This period was extended three times, finally terminating March 31, 1951. The diplomatic representatives in Japan of all countries maintaining such representation in Japan were notified directly; other governments were notified by the United States. The provisions also received wide publicity through FEC press releases, notices in professional patent and trade-mark journals, press releases of SCAP, etc. If, nonetheless, the United Kingdom feels that a further extension of time should be allowed, this should not be done through the Peace Treaty, but we should express willingness to consider requesting SCAP to direct a further time extension.

4. Since the expiration date of March 31, 1951 has passed--or any reasonable extension thereof will have passed prior to the Peace Treaty coming into force--there would be no advantage in including a clause in the Peace Treaty to permit Allied nationals to regain industrial property rights in Japan. A provision requiring Japan to continue to afford to Allied nationals the benefits of measures hitherto adopted would make it legally impossible, however, for Japan to rescind benefits granted before the effective date of the Treaty.

5. It

5. It is suggested, therefore, that a second paragraph reading as follows be included in Article 16 of the Treaty:

"(b) Japan agrees to continue to accord to industrial property of nationals of Allied Powers the benefits afforded by Cabinet Orders 309 and 315, effective September 1, 1949; Cabinet Order 12, effective January 28, 1950; and Cabinet Orders 9 and 10, effective February 1, 1950. Japan further agrees to continue to afford nationals of Allied Powers effective protection against unfair competition."

6. The above-listed cabinet orders relate, respectively, to:

Cabinet Order	Description
No. 309	Order for Post War Disposition of ~~International~~ Property Rights Owned by Allied Nationals
No. 315	Order for Registration of the Post War Dispositions of Industrial Property Rights Owned by Allied Nationals.
No. 9	Order for Post War Measures Releating to Trade-marks Owned by Allied Nationals
No. 10	Order for Registration of the Post War Measures Relating to Trade-marks Owned by Allied Nationals
No. 12	Order for Temporary Measures Concerning Trade Names of Foreign Nationals

The last sentence of the above-proposed language is added, since it is covered by SCAPIN 2042, pursuant to which Cabinet Orders 9, 10 and 12 were issued, but is not covered by the cabinet orders. Without such provision the protection of reestablished Allied trade-mark rights is incomplete, since protection of trade-marks cannot be achieved solely by registration and rights in trade

names

names are protected solely by laws on unfair competition. This sentence has been worded in such a way that the Japanese are left entirely free as to the legislation they may hereafter wish to enact and are not required to continue in effect any particular legislation drafted during the occupation. The inclusion of this general provision, however, would provide a specific basis for representations should any future Japanese laws or implementing procedures involve violation of Allied trade-mark and trade name rights. In connection with this sentence, it should be further noted that this sentence will afford protection to the United States as well as to other governments. The Protocol to the Treaty, in stating that Japan will accede to the Arrangement of Madrid of 1891 Concerning the Prevention of False Indications of Origin, as amended at London in 1934, benefits the United Kingdom and Allied countries to some extent in this connection. It does not, however, benefit the United States, which is not a party to this Agreement.

7. The United States should reserve the question of its approval of inclusion in the Protocol of a provision that Japan will accede to the "Agreement of Madrid of April 14th 1891 For the Prevention of False Indications of Origin of Goods, as Revised at London, June 2nd 1934." (The Treaty should as a technical detail refer to this agreement as quoted above rather than as presently cited.) The United States is not a party to this agreement, would not benefit by its application to Japan, and has material objections to it. While we should not oppose Japan's acceding to it, we should not insist on requiring Japan's accession in the Peace Treaty if, for reasons similar to our own, Japan finds it objectionable. It would be preferable from our viewpoint to rely upon the statement regarding unfair competition stated above for protection of the type afforded by the Arrangement of Madrid.

B. Artistic and Literary Property

1. The United States should take the position that it is unnecessary to provide Allied nationals with a period of time to enable them to accomplish acts for obtaining or preserving rights in literary and artistic property which were not capable of accomplishment owing to the existence of a state of war on the grounds that:

(a) No direct action was taken by the Japanese Government during the war with respect to Allied copyrights in Japan.

(b)

(b) No acts need be performed to acquire copyright. Protection of copyright is automatic, at least with respect to publications in the Berne Union, and does not involve formalities such as application or registration with government authority.

2. The United States should take the position that it may be unnecessary to provide a period during which Allied nationals may institute proceedings in Japan against persons who infringed their rights in artistic and literary property on the ground that such suits can now be maintained without special provision therefor since ownership of copyright was not disturbed during the war. (We are now checking this point with SCAP.) 1/

3. The United States should take the position that extension of time of copyrights for a period corresponding to the period from the effective date of war to some postwar date is unnecessary, since it would constitute an insignificant addition to the present term of copyright, which is life and fifty years.

4. The United States should be prepared, if requested by the United Kingdom, to consider the extension in Japan of the ten-year term provided for translation rights under the Berne Convention for a period equivalent to that lost during the war period. (We are now obtaining further data on the implications of such a provision from SCAP.) 1/ Since the United States is not a member of this Convention, such an extension would be of no value to us. Rather than include such a provision in the Treaty, however, we should take the position that it would be preferable to handle the matter through directives to the Japanese Government. Resulting orders of the Japanese Government could then be incorporated in the list of orders referred to in the proposed addition to the Treaty set forth in Part A, paragraph 5, above.

1/ Inasmuch as the United States has never enjoyed substantive copyright protection in Japan, it had not been necessary to consider these problems in connection with American interests.

EDT:BPT:WHRusch:slb
5-9-51

SECRET

May 16, 1951

TO: John Foster Dulles

FROM: John M. Allison

SUBJECT: Talk with Sir Oliver Franks Regarding Japanese Peace Treaty

In addition to any general remarks which you may wish to make regarding your trip to London and the general spirit back of our concept of the Treaty, it is suggested you may wish to discuss briefly the following specific points:

1. U.S. will accept U.K. positions on War Crimes.

2. U.S. accepts U.K. redraft of Article on Fisheries with exception of U.K. substitution of word "states" for "Allied Powers".

3. U.S. is inclined to accept U.K. idea that Korea should not be a signatory and is drafting an article which will give Korea certain rights under the Treaty.

4. U.S. is preparing a redraft of the Article on Civil Aviation which more nearly accords with U.K. point of view and will submit it shortly.

5. U.S. agrees that Japan should relinquish its position of a director in the B.I.S. but believes that question of sale of shares should be left up to private negotiation.

6. U.S. believes that with respect to the Congo Basin Treaty Japan should receive the same treatment as Italy.

7. U.S. cannot recede from its position that gold and precious metals in Japan should not be made available for reparations.

8. U.S. is preparing a redraft of Article 13 of Joint U.S.-U.K. Draft on Commercial Treaties and will submit it for U.K. consideration shortly.

9. As

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9. As indicated by Allison to Tomlinson the U.S. wishes to restore the paragraph wd ving further reparations claims by Allies and desires to re-introduce a time limit in the adherence clause.

10. U.S. is still considering its position with respect to treatment of Japanese assetsin neutral and ex-enemy countries. Suggestion might bemade that Japan be urged to agree to having such assets turned over to U.N. Children's Fund or some similar international benevolent agency for use in Asia as partial recompense for devastation caused by Japanese troops.

11. With respect to Formosa problem appreciation should be expressed for Morrison's statement as indicating a move in the right direction and the hope expressed that in view of Morrison's statement that the disposal of Formosa should not be permitted to hold up a Japanese Peace Treaty, that agreement can be reached speedily on this matter.

12. With respect to participation of Communist China in Japanese Peace Treaty, suggestion might be made that neither Communist nor Nationalist China be original signatories. The hope should be expressed that if this commends itself to the U.K., the latter for obvious reasons allow U.S. to decide how to lay the ground work and make the eventual announcement.

cc: FE - Mr. Rusk
BNA - Mr. Satterthwaite

S:JMAlliaon:mb

STANDARD FORM NO. 64

CONFIDENTIAL

Office Memorandum • UNITED STATES GOVERNMENT

TO : NA - Mr. Farey

DATE: May 16, 1951

FROM : NA - Mr. Overton

SUBJECT: Repatriation of Japanese from Soviet-Controlled Territory

With reference to our recent conversation concerning Japanese repatriation, I am submitting herewith the current statistics of the Repatriation Section of the Japanese Foreign Office, which is at present compiling the results of a nation-wide survey. These figures, which have been given to me informally by a Japanese Foreign Office man who is at present on a visit here, have not been cleared within the Foreign Office or shown to SCAP; therefore they should be treated in strictest confidence and not shown outside the Department. They are considerably higher than the generally-accepted estimate of 370,000 cited at the U.N. hearing.

In the event that Mr. Dulles desires to make any public remarks at this juncture concerning Japanese repatriation, I would suggest that it be along the following lines:

"On August 31, 1950 the Japanese Government estimated on the basis of data then available to it that some 370,000 Japanese who fell into Soviet hands at the conclusion of hostilities had not been returned to Japan or otherwise accounted for by the Soviet authorities. Nearly one-half of these persons were military and naval personnel; the rest were civilians, including women and children. Since that date the Japanese Government has been conducting a new survey of the problem, and on the basis of additional data received from families and other interested persons, it has already determined the names of 323,973 of these persons. There is reason to believe that when this survey is completed, it will be found that the actual number of missing persons considerably exceeds the previous estimate of 370,000."

FE:NA:DWOverton:clh

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Japanese in Soviet-Controlled Areas Who Have As Yet Not Been Repatriated Or Otherwise Accounted For By The Soviet Authorities

	Army and Navy	Civilian	Total
Siberia	100,000 (35,687)	20,000 (460)	120,000 (36,147)
Manchuria and Kwantung	62,000 (18,497)	198,000 (112,413)	260,000 (130,910)
North Korean	11,000 (6,801)	33,000 (17,459)	44,000 (24,260)
Sakhalin and Kuriles	4,000 (294)	9,500 (2,771)	13,500 (3,065)
TOTAL	177,000 (61,279)	260,500 (133,103)	437,500 (194,382)

Note: Figures in parenthesis indicate number of known dead. Since the Soviet authorities have never transmitted any information concerning deaths, the Japanese Government has been forced to rely on information given by returning repatriates.

FE:NA:DWOverton:clh

US PROPOSED TREATY TEXT: (Article 9)

.....

(c) Japan renounces all rights, title and interests acquired under, and is discharged from all obligations resulting from, the Agreement between Germany and the Creditor Powers, of January 20, 1930, and its Annexes, including the Trust Agreement, dated May 17, 1930, the Convention of January, 1930, respecting the Bank for International Settlements, and the Constituent Charter and the Statutes of the Bank for International Settlements. The above mentioned rights, title and interests shall not be deemed to include the 19,770 shares of the Bank for International Settlements presently owned by Japanese financial institutions. Japan undertakes to notify to the Ministry of Foreign Affairs in Paris within six months of the coming into force of the present Treaty, her renunciation of the rights, title and interests referred to in this paragraph.

.....

STANDARD FORM NO. 64

SECRET

Treaty Changes

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 15, 1951

FROM : NA - Mr. Hemmendinger WH

SUBJECT: Comments on Articles 5, 15, and 18 of the Draft Treaty

125

Article 5

It is recommended that paragraph (a) of Article 5 be revised to read as follows:

> "Except as may be otherwise agreed by the Allied Power concerned and Japan, Japan renounces all rights, titles and interests of Japan and its nationals (including juridical persons) in, and all claims in respect of, property situated at the end of hostilities in the territories mentioned in Articles 2 and 4 which has been seized, vested or disposed of by the Allied Power concerned and undertakes to deliver to the Allied Power concerned records, archives and similar property pertaining directly to the government and administration of the areas ceded or renounced."

No change is recommended in the other paragraphs of Article 5.

The object of the suggested changes is to make the provision more definite. Unlike property in the countries which were at war with Japan (Article 15) there should be no property in ceded or renounced territories which the Power concerned has not already taken under control in some manner. The expression "at the end of hostilities" is used rather than a specific date because the date which would be obviously appropriate is September 2, 1945. The use of this date would involve us in issues of good faith with Korea, however, because the vesting decree for Japanese property in Korea enacted by U.S. military government was applicable to property in Korea on August 9, 1945. The Koreans have been pressing a claim to ships which were removed from Korean waters between August 9 and September 2. If we were concerned only with the Korean situation, it might be fitting to use the date August 9. The trouble with this date, however, is that it might give various governments claims to property removed to Japan just before the surrender, which the Japanese had a perfect right to remove. The proposed language will not be determinative of the Korean claims, but will give both sides enough support so that a reasonable compromise should be possible.

With respect to the Note on Japanese liability for debt, see my comment on Article 18.

Article 15

Article 15

It is recommended that sub-paragraph (i) be revised to read as follows:

> "property of Japanese nationals permitted to reside during the war in the territory of one of the Allied Powers, other than territory occupied by Japan, except property subjected during that period to measures not generally applicable to the property of Japanese nationals resident in such territory provided, however, that property shall be returned hereunder on a basis no more favorable to Japanese nationals than is applied by the Power concerned to nationals of countries occupied by Japan or Germany during the war."

and that the full paragraph following sub-paragraph (iv) be revised to read as follows:

> "Property referred to in this paragraph shall be returned ~~net of any expenses incident to~~ subject to charges for its preservation. If any such property has been liquidated the proceeds shall be returned instead."

These two changes were proposed by the OAP and should be acceptable to the British. The British have reservations on reparations clauses of their original draft, and in addition have informed me (telephone call from Mr. Pridham) that they cannot agree to the exemption of the personal property of diplomats, which was not done in the Italian or Hungarian treaties or in the Treaty of Versailles. They also believe the reference to the return of proceeds if property has been liquidated should be omitted. Mr. Pridham indicated however that he doubted that his Government would insist upon these deletions.

This leaves as the principal open question on Article 15, the application of the Article to assets located in Japan, which was the subject of the original United States sub-paragraph (iv) and which the United States reserved its position on at the close of the British talks. There are three main possibilities:

1. Acceptance of the Article in its present form with no mention of this problem. Presumably the British would prefer this and it should be acceptable to the OAP if we insisted. This course would, however, expose Japan to a variety of claims based upon instruments located outside Japan with the possibility, at least, that governments could rely on the treaty provisions in asserting the claims. In our opinion, it is neither logical or equitable for governments to assert claims based upon the chance location of instruments to property or debts which are within the control of the Japanese government, and such action would be inconsistent in the main with precedents which have been developed in connection with the disposition of German assets. It is recommended that this course not be accepted.

2. The OAP

2. The OAP has proposed the following exception in addition to the present exceptions to paragraph (a):

> "obligations owed by Japan, by enterprises organized under its laws or by natural persons resident therein, any right, title or interest in tangible property located in Japan, interests in enterprises organized under the laws of Japan, or any paper evidence thereof, provided that such property, rights or interests were not
>
> a. property, rights, or interests wherever located owned at any time on or after December 7, 1941 by an enterprise organized under the laws of an Allied or Associated Power, or
>
> b. property, rights or interests wherever located which were at any time on or after December 7, 1941 assets of a branch or other similar office within the territory of an Allied or Associated Power of an enterprise organized under the laws of Japan;"

This is a careful formulation of the precedent which has just been developed with respect to German assets, as the United States position. It involves essentially acceptance of the State Department position that claims based upon securities located outside Japan should not be pressed but excepts assets belonging to U.S. corporations and branches in the United States of Japanese corporations. The general reason for this is that the claims of creditors are involved in these situations, but this would not be true in every case. The main reason for the adoption of this position for Germany is that in the case of Stinnes properties it appeared impossible to resolve the conflicting interests by any other course.

In my opinion, and in the opinion of officers of L/E, this position would still expose the Japanese to inequitable claims, though there has been no estimates of just what amounts would be involved. It may be desirable for this course to be discussed with the Japanese to see whether they consider it at all reasonable. It does have the advantage of laying down a fairly clear formula. It is doubtful however whether the British would go along with it. If this clause is accepted the whole of Article 15, with the changes indicated above, is acceptable to the OAP.

3. The third

3. The third course would be to omit any detailed formula, and to modify the second sentence of paragraph (a) to read as follows:

> "However, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all ~~property,~~ rights, titles, and interests of Japan and of Japanese nationals (including juridical persons) in property which at any time between December 7, 1941, and the coming into force of the present Treaty were was subject to its jurisdiction, except:"

Although this course would not be readily accepted by the British or by the OAP it is believed to be preferable and it is recommended that an effort be made to have it adopted. By stating the right to seize in terms of property within the jurisdiction of the respective Powers it leaves disputed questions to be resolved, ~~but~~ in the last analysis, by power over the asset, which is believed to be the right standard. This formula would not enable vesting powers to rely specifically on the treaty in pressing claims against Japan arising from documents seized outside Japan, but would, it is believed, give them a good case in the situations with which our OAP is justly concerned, namely where the assets belong to U.S. corporations or branches of juridical entities in the United States. The existence of the corporations or branches as entities under U.S. law supports an argument that the assets of such bodies are within U.S. jurisdiction. It should be noted that the language suggested is closer than the present language of Article 15 to the language of Article 5, which in this respect is based upon the British draft (Article 8).

Article 18

Article 18

It is recommended that the Note reserving our position on Japanese liability for debts in respect to property in renounced or ceded territories be dropped in further discussions with the British, but that the British be informed that our minds are not closed on this question if the Japanese see fit to raise it.

The problem is whether Japan should continue liable for obligations of the Oriental Development Company, Ltd., which financed the development of agriculture in Korea; the Taiwan Electric Company, Ltd., which financed electric power development in Formosa; and of the South Manchurian Railway. See discussion of this problem on pages 6 and 7 JAPC D-3/7. The total amounts involved are believed to be about $24 million and £5 million sterling, including accrued interest.

Bonds of these issue were originally guaranteed by the Japanese Government and in addition became direct obligations of the Japanese Government by virtue of Japanese wartime law, which also converted locally held bonds to yen obligations. It can be argued that there is no basis for relieving Japan of the obligation, and that the Japanese Government has a claim against the corporations which is wiped out by the renunciation of claims in Article 5 (a). On the other hand, the Japanese could argue equitably that the monies borrowed were used for development in ceded areas and that the obligation should be assumed by the governments getting the benefit of the assets. If an orderly settlement of claims with respect to ceded territories were likely, and if these governments enjoyed good credit such a disposition would make sense. As it stands, however, the bondholders are likely to be left in the lurch if Japan does not recognize the obligations, and the Japanese Government may desire to do so to support her international credit.

It is recommended that this problem be discussed with the Japanese at the earliest opportunity.

FE:NA:NHemmendinger:lb

DEPARTMENT OF STATE

THE LEGAL ADVISER

May 14, 1951

S - Mr. Dulles

ARTICLE 12 of May 3 DRAFT OF JAPANESE TREATY

1. It is believed that United States acceptance of the first sentence of the British draft of Article 21, War Criminals, might forestall any future Japanese contentions as to lack of jurisdiction, irregularity of procedure, or illegality of judgment or sentence, as respects proceedings of the International Military Tribunal or the Allied War Crimes Courts. It also serves to impose on Japan the function of carrying out the sentences, unless interrupted by clemency or parole, as provided by the second sentence.

2. The omission of the word "pardon" in the second sentence is not important. While L is of the opinion that a power of pardon is technically desirable, for use in the case of newly discovered evidence exculpating the prisoner, it is not necessarily to be created by this Treaty, and can be a subject of international agreement in the unlikely event of such evidence. It may be inadvisable to suggest the possibility of pardon by its insertion in the present treaty.

3. It is recommended that the United States include the first sentence of British Article 21, and omit the word "pardon" in the second sentence.

Conrad E. Snow

Seems OK to me.
Dulles

L:L/FE:CESnow:lml

STANDARD FORM NO. 64

CONFIDENTIAL

Office Memorandum • UNITED STATES GOVERNMENT

TO : S - Mr. Allison

DATE: May 2, 1951

FROM : NA - Mr. Fearey RAF

SUBJECT: Site of Peace Conference

The attached two letters and proposed replies regarding an invitation of the city of San Francisco to hold the Japanese peace treaty signing ceremony there are a reminder that selection of Tokyo may arouse considerable criticism in San Francisco and elsewhere in this country. Many will fail to see why the "honor" should fall to Tokyo rather than to a city of one of the countries which won the war. I must say I wonder a bit myself, particularly now that General MacArthur is gone and the old purpose of letting him preside over the ceremony as the climax before his departure for the U.S. no longer exists. Of course the ceremony is not going to be a full blown peace conference as Mayor Robinson imagines. Probably Tokyo is the best place for the type of conference and type of treaty we have in mind, particularly if many countries designate their ambassadors at Tokyo as their representatives.

See Knowland, Mayor Robinson

FE:NA:RAFearey:re

CONFIDENTIAL

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BANK FOR INTERNATIONAL SETTLEMENTS

Current Problems-Japanese Membership

General Comments:

The operations and influences of the Bank for International Settlements constitute one aspect, if a minor, aspect, of the financial net-work in Europe and the rest of the world. In spite of strong opinions in 1944 that the Bank should be liquidated ~~in~~ expressed in 1944 in a Resolution at Bretton Woods, the Bank continues to exist, to make profits, and to perform useful functions. While the future of the Bank and the scope of its activities are uncertain, attention needs to be given to certain general problems and principles which may arise.

One such current problem, which brings into focus more general questions, is the future participation of Japan. It is understood that the British are proposing, in ~~its~~ draft treaty for Japan, the transfer of shares from Japan as a part of the peace settlement and the exclusion of Japan from membership. This proposal is based in part on the theory that the Bank should be European rather than world-wide in scope.

The Status of Japan:

From the beginning the Japanese participated in the conferences and agreements setting up the Bank. They were represented at the Reparation Conference in 1929 and at the Baden-Baden Conference in 1930. They signed the Trust Agreement, Hague Agreement, and the Convention with Switzerland and have, thus been a part to the international treaties bringing the Bank into existence.

The Japanese subscribed to the capital of the Bank to the extent of 4,577,067 Swiss Gold Francs. This subscription to the shares of the Bank corresponded to 4% (page 38) of the total by the eight founding governments (the U. S. and Japan were represented by private banks, Japan by the Industrial Bank of Japan. For legal reasons they could not participate as governments. Japan as a government, however, participated in the treaties.) Japan like Germany is presumed by the Swiss, and by the management of the Bank, to own valid rights and to be competent to exercise significant functions as soon as the status of the Japanese Government is made clear and sovereignty restored by a treaty. In the case of Japan the situation should in fact be easier to clarify than in the case of Germany because the country has not been partitioned and the Soviets need not be a party to the treaty.

The Attitude of Various Countries to the Question:

Little is known here as to whether the other government members of the B.I.S. wish to have views on the Japanese membership in the Bank for International Settlements. It has been reported by the British but not confirmed from Basle, that the B.I.S. Board of Directors is willing to have Japan

dropped.

were to be made which would permit Japan to participate through other agencies more effectively than through the Bank for International Settlements. It may even be possible that economic and commercial interests would be served by Japanese participation in the Bank in the period of reconstruction. The views of the B.I.S. on these questions would be useful.

RECOMMENDATION

It is suggested here that further information be secured without raising the issue in a formal way, that the British position be explored and the attitudes of certain other main member countries and the B.I.S. be ascertained. Further study needs to be made also of the legal and financial status of Japan in the B.I.S.

On the basis of information presently available it appears that the U. S. would be setting an undesirable precedence and would be going counter to certain broad policies with regard to world financial relationships if Japan were to be excluded from the Bank for International Settlements prior to or at the time of the signing of the treaty.

Action on this question should be deferred until the various economic, legal and political aspects have been further explored.

EUR:WE:ELDulles:emh
May 3, 1951

dropped. It is assumed that in view of the relative unimportance of the question the British are alone in having taken a position on the matter. Presumably the British point of view is dictated by two considerations; one as indicated above a preference on their part for lessening the participation of Asiatic countries in European affairs, and two, a desire to have the Japanese shares available as an additional source of compensation or reparation. However, a willingness to give adequate compensation for the shares would eliminate point two.

There seems little basis for United States support of the British position. It is quite likely that in view of the small importance of the question that informal conversations might lead them to change their views. This again is a matter which might usefully be explored.

Major Considerations in Japanese Membership:

The following four considerations which seem to support the view that Japan should not be excluded from membership in the Bank for International Settlements:

1. Since Japan is a signatory to the treaties and agreements setting up the Bank, exclusion of Japan prior to the signing of the treaty might be deemed an infringement of solemn obligations undertaken by the other signatory governments and undue pressure on Japan. For the U. S. to urge such a course would almost certainly lead to protests by the Swiss who stand in some measure as guardians of the Convention and Statutes.

2. Japan holds, as of pre-World War II, the rights represented by the shares a part of the Guarantee deposits, and other deposits in the Bank which have been immobilized during the war. There would seem to be little advantage in expropriating these rights. The question of adequate compensation cannot be settled without full consideration.

3. From the point of view of American policy in general, it might be unfortunate at this time to have it appear that this government desired to exclude Japan from any international organization in which it might appropriately participate. The view that this government and certain other governments wish to maintain barriers between eastern countries and other countries based on racial prejudices, tradition, or economic power might support hostile propaganda exploiting the sensitive susceptibility of certain eastern countries.

4. The exclusion of Japan from the Bank for International Settlements would involve a number of complex legal arrangements which might not be completed in orderly fashion for several years.

Later adjustments of the problem would not be excluded by the failure to act with regard to Japan now if for any reason other financial arrangements

were to

May 3, 1951

TO : NA - Mr. Fearey

FROM : L/T - Mr. Whittington

SUBJECT: Japan and the Congo Basin Convention

The renunciation by Japan of all its rights and interests as a party to the convention of St. Germain-en-Laye of September 10, 1919 will have the effect of transferring Japan from the category of countries having a special status in the Congo Basin area to the status of being one of the members of the international community entitled only to the benefits established by the convention in favor of the commerce of all countries.

The rights granted parties to the convention include (1) full freedom of trade within the bounds of the Conventional Congo Basin as defined in the Berlin Act of 1885; (2) merchandise belonging to their nationals to have free access to the interior of the region, free from the imposition of differential treatment on importation or exportation, with transit remaining free from all duties, taxes, or dues, other than those collected for services rendered; (3) "without distinction the same treatment and the same rights as the nationals of the Power exercising authority in the territory" with regard to the protection of persons and effects, the acquisition and transmission of movable and real property, and the exercise of professions; (4) equal treatment in the award of concessions for the development of the natural resources of the area; (5) free navigation of all the rivers, lakes, and outlets, and perfect equality in the use of roads, railways, and canals, as well as in the payment of toll charges; and (6) nondiscriminatory treatment in the use of facilities.

The only benefit which States not parties to the Convention derive therefrom is the benefit set forth in Article 1 that "The trade of all nations shall enjoy complete freedom . . . in all the regions forming the basin of the Congo and its outlets." In The Oscar Chin Case

(Per. Ct.

(Per. Ct. Int. Jus., Dec. 12, 1934, ser. A/B, no. 63), the Permanent Court of International Justice held that the meaning of the right of "freedom of trade" in the Congo Basin convention was as follows:

> "Freedom of trade, as established by the Convention, consists in the right -- in principle unrestricted -- to engage in any commercial activity, whether it be concerned with trading properly so-called, that is the purchase and sale of goods, or whether it be concerned with industry, and in particular the transport business; or, finally, whether it is carried on inside the country or, by the exchange of imports and exports, with other countries."

With respect to the right of freedom of trade, it is our view that Japan, in the event it is required by the peace settlement to denounce the Congo Convention, could not be deprived of its rights under Article I by a subsequent amendment of the convention or the formulation of a new Congo convention unless all parties to the present convention agree to the amendment or to the new convention. This conclusion is based upon a basic principle of treaty law than an existing treaty may not be amended or replaced by a later one unless express consent has been given to such action by all the parties to the existing treaty. Since the United States is a party to the present Congo convention, it would appear that Japan will not lose the right of freedom of trade granted thereunder by Article I as long as the United States is unwilling to concur in such a deprivation.

L:L/T:JWFoley:bel

May 4, 1951

MEMORANDUM TO SA/M - Mr. McDermott

FROM - S - Mr. Allison

SUBJECT - Talks with United Kingdom on Japanese Peace Treaty

The talks which we have been having over the past ten days with the British Foreign Office officials on the Japanese Peace Treaty are concluding today. While it has been decided not to issue any formal statement concerning these talks there is no desire to dodge questions about them. There is given below general information about these talks which you can use in answer to any press questions you may received.

The talks were on an official level and were without final commitment to either government. As a result of the talks there has been considerable progress made in bringing the points of view of the two governments closer together. It has been found in many cases that both the United Kingdom and the United States had exactly the same thing in mind but had been expressing it differently so that it has now been possible to produce language acceptable to both. While the inevitable result will be a lengthening somewhat of the original American draft, nevertheless it will still be probably the shortest peace treaty ever devised to end a great war. In view of the fact that the United Kingdom delegation must report to its own government and obtain Cabinet approval over actions taken by it during the discussion, it is not considered appropriate to go into detail at this time concerning various points of difference. However, it may be said that a conciliatory and cooperative spirit was manifested on both sides and that real and definite progress was made. If specific questions are asked concerning the problem of Communist China and Formosa, the statement could be made that while these subjects were naturally discussed no attempt was made by the officials concerned to reach any solution of the problems at this time. The main purpose was merely to make absolutely clear to each other exactly what was in each other's minds on these problems. Naturally the final solution of such difficult questions must be reached by the highest authorities in the respective governments.

If the question comes up as to who took part, you could say that the chief British negotiator was Mr. Charles H. Johnston, head of the Japan Department of the Foreign Office. He was assisted by legal and economic advisers from London as well as members of the staff of the British Embassy in Washington. The chief American negotiator was John M. Allison, Deputy to Mr. Dulles who was assisted by legal and economic officers of the State Department.

S:JMAllison:kg

Responsibility for Initiation of Positions on Certain Provisions

of May 3 Japanese Peace Treaty Draft

Mr. Snow

Article 9 (St. Germain-en-Laye) (L/T is preparing a clarification of its memo of May 3)

Article 12 (War Criminals, in light of note left by Mr. Tomlinson)

First Protocol (composition of list of conventions)

Mr. Hemmendinger

Article 5 (property in ceded territories)

Article 7, para. b (disposition of property held by withdrawing occupation forces)

Article 9 (Bank for International Settlements and St. Germain-en-Laye, with Mr. Snow)

Article 15 (following of assets into Japan)

Article 16 (patents and trade marks--Mr. Rusch is preparing a memorandum and proposed draft)

Article 19 (waiver of claims by Japan), e.g. Japanese claims vs. Germany

Mr. Walker

Article 13 (Commercial provisions--is now preparing a comment on Article 13 with suggested revisions)

Mr. Radius

Article 14 (Civil aviation--is now preparing an analysis of British position with recommendations)

Articles 8 and 23, para. b, also require revision, and a provision regarding Korea needs to be prepared.

Mr. Allison

137 Reparations

April 13, 1951

Memorandum to: Mr. Dulles

from: Mr. Allison

I do not believe that the Japanese Government has made a specific commitment with regard to what steps it is prepared to take through domestic legislation to make remuneration for loss of Allied property in Japan as is now provided for in the Peace Treaty. I suggest you may wish to discuss this matter in more detail with the Japanese while in Tokyo.

S:JMAllison:dad

Copy to Mr. Fearey

STANDARD FORM NO. 64

CONFIDENTIAL

Office Memorandum • UNITED STATES GOVERNMENT

138 Jpt - General

TO : S - Mr. Allison

DATE: April 17, 1951

FROM : FE - Mr. Sullivan PBS

SUBJECT: Organized Labor in Japan and the Peace Treaty.

File

For your information I am enclosing herewith a copy of a memorandum that I recently prepared concerning the action of the recent convention of the General Council of Trade Unions of Japan (Sohyo) regarding the affiliation with International Confederation of Free Trade Unions (ICFTU). This action, as I point out in the final paragraph of my memorandum, was in all probability closely tied to another resolution, that dealing with the Social Democratic Party position on overall peace, neutrality, re-armament, etc.

I am also enclosing a long excerpt from a letter recently received from John Ballew, the Labor Attache in Tokyo. In this letter he sets down in some detail the developments at the Sohyo convention relating to the peace principles of the Social Democratic Party. In my estimation you might wish to give consideration to recommending to Mr. Dulles that he arrange a formal conference with the outstanding trade union leaders of Japan for ~~the~~ a discussion on this issue of overall peace. Val Burati of the Labor Division would be the best person to consult as to who might be invited to such a meeting. In my estimation, a frank and hard-hitting presentation by Mr. Dulles to these labor leaders concerning the absolute impossibility of an overall peace treaty being achieved might have a very salutatory effect not only in labor circles but among the fringe elements of the Social Democratic Party itself.

Attachments:

As stated.

CC: FE - Mr. Rusk
NA - Mr. Johnson

FE:PBSullivan:vp

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NA - Mr. Johnson March 28, 1951

FE - Mr. Sullivan

Sidelight on the Recent Convention of the General Council of Trade Unions of Japan

The attached letter (copy) addressed to Mr. J.H. Oldenbroek, General Secretary of the International Confederation of Free Trade Unions, by Val Burati, the Chief of the Labor Relations and Education Branch of the Labor Division, ESS, SCAP, is a behind-the-scenes explanation of the failure of the Japanese General Council of Trade Unions--Sohyo--to formally affiliate with the ICFTU. This failure to affiliate must definitely be considered as a setback, though probably temporary, of our plans for firmly cementing the labor movement of Japan to the non-Communist world labor movement. The fact that this was a setback is indicated by the play given to this action by Communist propagandists in China and elsewhere.

In view of the detail given by Burati and the consequent length of the letter, I should like to summarize the more important points made:

1. The vote for affiliation with the ICFTU was 149 in favor to 79 against. Since a two-thirds vote was necessary, the motion was lost.

2. The unions of industrial workers, with one exception, favored affiliation. Opposing were the larger government workers' organizations, including those of the Teachers, the National Railways, and the Postal and Telecommunications. The one industrial union opposing was the New Congress of Industrial Organizations (Shin Sanbetsu). The unions opposing are those most directly subject to the influence of the Social Democratic Party, whose policy of "neutrality" appears to include opposition to Japanese labor's affiliation with a definitely anti-Communist group, at least at this time. (Shin Sanbetsu's attitude is involved and contradictory. It opposes the majority position vigorously on nearly all issues, and really should not be in Sohyo, as its main purpose appears to be to hamstring the body.)

3. The leaders of the government workers' unions who opposed affiliation with the ICFTU did so mainly because of (a) allegiance to the principles of the Social Democratic

Party,

CONFIDENTIAL

Party, and (b) due to some resurgance of Communist influence among the government unions during the past year--a growth significant enough that the leaders of these unions preferred to follow the line of the Social Democrats and oppose this resolution in order to protect their personal voting strength. (These unions are still in the non-Communist camp, but the Communist-influenced members apparently felt much more strongly on this issue than the non-Communist members).

4. While the left-wing of Sohyo succeeded in voting down affiliation with the ICFTU, they lost out on a number of other significant issues and on balance have lost ground. Most important, Sohyo voted to go in the direction of becoming a strong federation rather than remain the loose council of unions it has been up to the present time. It also voted to abolish the previously required unanimous rule for action by the Central Committee. Both of these were defeats for Shin Sanbetsu and the extreme left who wish to keep the organization weak and to maintain the veto power possible under the unanimous rule. Another big gain accrues from a very much improved slate of new officers.

5. The non-government workers groups were extremely angry over the outcome of the vote on ICFTU affiliation and are determined to move ahead and secure this affiliation. They severely criticized the heads of the unions who opposed affiliation and are planning to call a new convention sometime in April or May in order to push through ICFTU membership. Burati believes that by that time they will have set things up in such a way that affiliation will be secured.

Of special interest are the comments made to Oldenbroek by Mr. Burati in the paragraph beginning at the bottom of page 4.

In summary, the information contained in the letter sets the disappointing action of Sohyo on the ICFTU in a somewhat more encouraging light. In my opinion, such a vote would not have been possible had it not been tied in with the heated peace treaty and neutrality principles of the Social Democratic Party. Regarding this "neutrality" issue, while the outstanding leaders of Sohyo personally take the position that such a policy is completely unrealistic, they will not come out strongly in opposition to it so long as it is the official Socialist position, largely for fear of

splitting

splitting their unions on a political issue. Thus while it would appear that early Sohyo membership in the ICFTU is likely (though not certain), it is unlikely--unless the Socialist Party splits on the issue--that organized labor will openly or strongly support a "separate peace" program. On the other hand, aside from passing resolutions, I do not believe the Sohyo will actively work against steps leading to a separate peace. I am hoping to persuade the AFL and CIO to address messages to selected Sohyo leaders setting forth the positions of these U.S. bodies on this matter.

Attachment:

Copy of letter to
Mr. Oldenbroek.

cc:- FE- Mr. Lacy
Mr. Merchant

FE:PBSullivan:db

COPY

Tokyo, Japan
17 March 1951

Mr. J. H. Oldenbroek, General Secretary
International Confederation of Free Trade Unions
24, rue du Lombard
Brussels, Belgium

Dear Mr. Oldenbroek:

By now you probably have received primary reports from Mr. Okura and others of the nation taken at the convention of the General Council of Trade Unions of Japan - Sohyo - relative to affiliation with the ICFTU. The convention, bound by a two-thirds rule, failed to vote affiliation of Sohyo itself with the ICFTU although the way was left open for individual unions to affiliate themselves. The vote in favor of affiliation ran almost two to one as evidenced by the final vote of 149 in favor and 79 against. Many abstained, however, thereby preventing the required two-thirds of 164. In spite of the fact that the large majority favored affiliation, the fact that the convention officially failed to ratify it must be considered as a set-back for ICFTU in the Far East.

Such a result was not unexpected. In my letter of 27 February, I mentioned the perceptible cooling in sentiment toward the ICFTU. As a result of the convention it is now possible definitely to place the areas in which this defection is most pronounced. In general, it falls within the Government unions such as the teachers, a part of the National Railway Workers Union, the Postal and Telecommunications unions, and within Shin Sanbetsu, and a fringe of others which, as Shin Sanbetsu, are subject to the influence of the present leadership of the Social Democratic Party. It is worthy of note, however, that the Electric Power Workers Union, Densen, and the Federation of Heavy Electric Machine Workers Union, Judunki, both of which Shin Sanbetsu claimed to influence, supported affiliation with ICFTU in spite of the fact that they themselves are not affiliated.

As you know, the Social Democratic Party currently is expounding its three principles of (1) over all Peace Treaty, (2) opposition to military bases, (3) strict neutrality and in addition, opposition to rearmament.

The reasons why these organizations opposed affiliation of Sohyo to ICFTU vary. Shin Sanbetsu and the delegates under its influence were motivated by their allegiance to the principles

of the

of the Socialist Party. The delegates representing the National Railways, Postal, Telecommunications and the Teachers were motivated partly by the policies of the Social Democratic Party but more by the fact that the Communists and their sympathizers have gained in strength in the Government unions within the past year. The present officers of these unions who were among the delegates at the convention, took this position against the ICFTU so as not to alienate the Communist-sympathizers in their ranks and thus, in their thinking, not to jeopardize their chances for reelection within their own organizations.

It is significant that Mr. Etsuo Kato, a member of the executive committee of ICFTU and recently elected Secretary General of the National Railway Workers Union, was conspicuously inactive in forwarding the case of the ICFTU. I am told that he presented himself at the convention for ten minutes only to give a brief report on the ICFTU. His union was split on the issue, about half opposing affiliation, in spite of the fact that the three top officers of the union - Kato, Saito, the President, and Hoshika, the Vice Chairmen - are known definitely to personally favor the right-wing of the Socialist Party which is for close ties with the West, separate peace treaties and rearmament.

Oka, President of the Teachers' Union, who has been recommended as a member of the General Council in place of Mr. Araki, was active in his opposition to affiliation with ICFTU. I talked with him the other day and he said that he was personally in favor but desired to have each component of Sohyo decide on their own initiative to affiliate before Sohyo did. His reasoning is very strange, of course, and from his associations and others, we know that the real reason for his opposition was his fear of alienating supporters within his organization.

As to Shin Sanbetsu, Mr. Krane knows that situation thoroughly. I think it was a mistake for Sohyo to admit Shin Sanbetsu as its affiliation from the outset was obviously reluctant and done more to help Shin Sanbetsu than to help Sohyo. It affiliated with the reservations: (1) to "purify" Sohyo, (2) it declined to dissolve itself and affiliate its components to the national industrial unions in Sohyo. I personally think it would be much better if Sohyo severed relations with Shin Sanbetsu but the Japanese attitude based upon traditions of family and group unanimity favors the inclusion of all groups. They fail to see, of course, that this weakens and often paralyzes the direction of the organization involved as in this case in conjunction with the two-thirds rule it has paralized the majority will of Sohyo. We also believe that the two-thirds rule should be eliminated and this will probably be done in a year or two.

Although

Although on the political plane because of the situations in the Government Workers Unions, Shin Sanbetsu appeared to win, on the organizational plane, it lost. The convention voted to abolish the unanimous rule which bound the Board of Governors (Central Committee) and by which rule Shin Sanbetsu was able of course to exercise a veto power on the Board. The change was from unanimous rule to three-quarters rule, not a large step toward democracy by the majority but at least a step forward. Shin Sanbetsu also lost on the votes to strengthen Sohyo. The convention decided to take a step forward in converting Sohyo into a strong federation instead of a loose council and to increase the budget in spite of Shin Sanbetsu's objections.

It appeared for a time that the failure to affiliate with the ICFTU would create a split in Sohyo as the Seamen's Union and the Miners' Union, headed by Muto, President of Sohyo, stated they would refuse to allow any of their members to become officers of Sohyo unless affiliation was passed. When the question of affiliation was reconsidered it increased the number in favor from 142 on the first vote to 149 on the second which I mentioned in the first paragraph. A recess had to be called in order to give the union leaders a chance to overcome the crisis. Muto finally agreed to serve again as President. The Vice Chairmen chosen are a great improvement over the weak officers put in these positions last year. The election of Minoru Takeno, General Secretary of Sodomei, is a great step forward for Sohyo. He replaces Shimagami his Chief Assistant who will probably be appointed head of the Political Department. Takeno, a master organizer, now brings into Sohyo the vast plan he set in motion as leader of the majority faction in Sodomai to organize national industrial unions affiliated directly to Sohyo and to bring some order finally into the patch-work quilt pattern of the Japanese labor movement.

The truly workers unions are angry beyond measure at the opposition to ICFTU shown by the Government Workers Unions and Shin Sanbetsu. The new executive committee of Sohyo met on 14 March, two days after the conclusion of the convention and severely criticised Kato and Oka. When Kato was asked why he did not actively support affiliation, he answered "It is democracy." The two delegates from Shin Sanbetsu much to their surprise, were firmly requested to withdraw from the meeting in order that the Executive Committee might prepare the agenda for an extraordinary meeting on 20 March.

Tanro, the Coal Miners' Union, headed by Muto, has proposed the following action to be taken on 20 March:

1. To

1. To recommend that Mr. Kato and Oka voluntarily resign from their positions in the ICFTU.

2. If they refuse, the Sohyo Council should demand that the ICFTU recall them.

3. The Joint Council of Unions affiliated with the ICFTU will draft a report to the ICFTU, the drafting to be entrusted to the Seamen, Tanro and Sodomei which you will notice are all unions favorable to affiliation.

4. Shin Sanbetsu must pay its dues owed to ICFTU in the amount of ¥800,000 or be expelled from the Joint Council of Unions affiliated with the ICFTU.

I, and undoubtedly Mr. Okura, will let you know what happens after the 20th.

On 15 March the industrial unions in Sohyo met to set up a coordination committee within Sohyo. This move was sponsored by the Seamen's Union.

Another step along the road to unification of the Japanese labor movement in Sohyo will be the special convention called by Sodamei on 28 March to carry out its dissolution finally. I do not think one should fret overmuch at the failure to affiliate with ICFTU. The trend of events is certain to discredit the present and in our opinion, stupidly pro-Communist policies of the present leadership of the Socialist Party. The leaders of Sohyo intend to call a special convention some time in May or June to definitely carry out affiliation with the ICFTU. I am sure that around that time this will be definitely accomplished.

As a matter of fact the Sohyo convention was a mile-post in the development of the labor movement here. It was democratic; the debate was free and fair although at times heated and once or twice violent; but more significant, the delegates were doing their own thinking and their own deciding. I think that in spite of the failure to affiliate, Sohyo has been greatly strengthened and will become an organization assuredly permanent once its member unions decide to give it a budget above the pauper's level.

So long as I am here, I shall supplement Sohyo's reports to you with my personal observations. I am leaving in July, however, and I hope by that time that the liaison between Sohyo and you and with Mr. Mungat in Singapore will have been

firmly